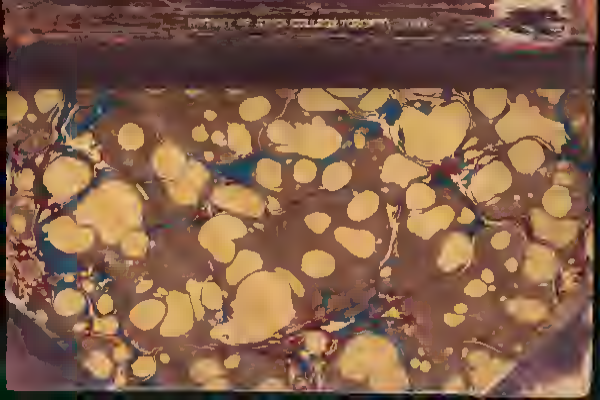

THE

ORIGIN HISTORY AND MANAGEMENT

OF THE

UNIVERSITY OF KING'S COLLEGE

TORONTO

Tres Tyrannos mihi nulla dominatus agebat

What we want is Liberty—Absolute Liberty—Just and True Liberty—Equal and Impartial Liberty."—Locke.

TORONTO
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MDCCCLIII

TO

THE HONORABLE ROBERT BALDWIN

LATE ATTORNEY-GENERAL FOR UPPER CANADA

WHOSE BILL

INTRODUCED DURING THE LAST SESSION OF PARLIAMENT,

FOR OPENING THE UNIVERSITY OF KING'S COLLEGE

TO

ALL CLASSES AND DENOMINATIONS OF HER MAJESTY'S CANADIAN SUBJECTS,

ENTITLES HIM TO THE GRATITUDE

OF EVERY ENLIGHTENED FRIEND

OF

CIVIL AND RELIGIOUS FREEDOM

THE FOLLOWING PAPERS

ARE

RESPECTFULLY INSCRIBED

INTRODUCTION.

Much as the public mind has been exposed to the urgent necessity of a thorough University Reform, it is questionable whether the country is yet in possession of all the facts upon which that necessity is based. It must be admitted, that the array of vested rights instituted, as it has been, by the legal hypothesis of the Inglesian Council has had some effect in diverting attention from the circumstances which may that hypothesis to the fortifications. But that the High Church party should have had the extraordinary hardihood they can scarcely have done if they should have made every use of it. For, if it can be shown that the endowment of King's College was originally granted for the purposes of general education—that the intention of the grant was to establish a public institution—and that the University has been perverted to a private and sectarian purpose, by a party at no period formally in popular enlightenment,—there must be every reason to complain that the vested rights of the people have been grossly infringed—and that the monopoly of the Episcopal Church has been fraudulently acquired, and is unjustly maintained. The question at present before the country is not, whether the exclusive claims of that Church originally founded on justice, are to be invested, by means of a public assembly, and whether rights, honestly acquired, are to succumb to purposes of general utility;—but the true question at issue, as simply, whether the University, as a great national institution—endowed with funds for general education—is to be opened to all classes and conditions of her Majesty's Canadian subjects—or whether it is to be a monopoly, for the exclusive benefit and advantage of the members of the Episcopal Church.

Such is the principle involved in the motion which is now going on—a contest which might never to have been mooted, and which would have been nobly and wisely averted, if just and reasonable claims on the one part had been met in a spirit of enlightened justice and toleration on the other. In stating these claims, the people have no desire to injure the Episcopal Church. Many of them are proud to acknowledge her connexion to be Apostolic, its discipline, and government; and by some of its warmest adherents, in the course of justice and literature not by monopoly. Nor do they offer denominations any superiority or exclusive enjoyment—all that they desire is, equality of privileges in this seat of learning and science and in pressing this equitable claim they only seek to have the University restored to the purposes of its original foundation, and to have it adapted to the character and spirit of the present age, which abhors monopolies and arbitrariness.

It cannot be denied, that recent events have given energy and direction to these claims,—and that the reckless conduct of the monopolists has invested with an

impartial character the demand to have the monopoly broken up. The fact that the interests of the University have been sacrificed to schemes of personal ambitions and private aggrandizement, and that a noble institution practically endowed, has been plunged into irretrievable difficulties, by a system of gross and glaring mismanagement—has created a deep and general feeling of indignation throughout the province in which the members of the Episcopal Church have largely participated.

It has now become too obvious, that the people must have some other security for their chartered rights than the punishment of those on whom they are resorted—and that Legislative enactments are of little value, if their execution is to be entrusted to individuals, whose object and interest are to undermine the principles upon which they are framed. It would be a vain mockery to offer any measure of delusive liberality, by which the governing power of the University was not completely changed, and by which those who have vitiated faith with the people, and with their crown, should not be made to suffer the consequences of their dereliction.

Before King's College can exhibit a vigorous and healthy advancement, and produce the fruits of a complete and generous education, it must at once be freed from the system of despotism preponderance, which at present both fetters its energies and degrades the morals of its youth, and relieved of the management of those individuals, who have so grossly perverted the objects of the institution, and who are now clinging with convulsive tenacity to the power which they have inexplicably abused.

There is every reason to believe that no attempt will be made by the High Church party to defeat the principle of the Toronto Bill, by bringing the leading stake into alliance. But in any such unprincipled scheme which would sacrifice the permanent interests of the country to the temporary and secondary advantage of particular sects, the people of Canada will assuredly offer the most unconquerable opposition. Full, free and unrestricted participation in the benefits to be derived from the University, is the same matter of every individual in this country, to whatever sect he may belong; and if any man shall be found base enough to sell the civil and religious privileges of the Canadian people, which are the property in fee of every one of party for a mess and or personal advantage, he justly will be visited with the execration of the country and of posterity, and with the contempt of the party who may purchase his degradation.

The great feature of the University Bill was its avowed hostility to all sectarian monopoly. Its object was to make the University a general and National Institution—an Institution in which the youth of all classes and persuasions might freely mingle and where by being confined in their amusements as well as in their studies and pursuits, they might be permanently united by the bonds of friendship and good feeling—an Institution in which might be nurtured and developed those generous feelings and affections which would mitigate the baneful animosities that the conflict of opposite interests might otherwise engender, and which would direct future opposition of its accuracy and its bitterness.

It is time that this great subject should be entered upon from all sectarian interests, and that it should be contemplated exclusively in its important bearing on the destinies of this Province. In a country so divided by religious opinions, and where the influence and intelligence of the different sects are so nearly balanced, it is of the highest importance that its public institutions should be sufficiently comprehensive to permit of, and to encourage free and unrestrained intercourse between the classes. And where can such intercourse and communion be so happily and so completely effected as within the walls of a University where all denominations of Christians would mingle and be educated under one general system; and where, by associating together at the most interesting season of life, they might lay the foundations of future harmony and mutual goodwill, an essential to the well-being of all society, and which can by no means be compatible with differences either in religious faith or political opinions? By such an amalgamation of classes in the communal education of the Canadian youth, we might get rid of the two superior religious and political differences without, down—the lines of division gradually obliterated—prejudices slated and adverse feelings reconciled.

The grasping conduct of the High Church party has indeed prejudiced this question with considerations extraneous of its own merits and an error of the important interests of the country but the boasted influence of that party operated to a more injurious degree, than on the progress of general Education and the successful establishment of the University. It is universally evident that if King's College be persuaded to retain the sectarian and exclusive character which has been hitherto imparted to it, and if the other denominations are excluded from a participation in its benefits—whether by their own self-chosenness or by the powerful opposition of sacerdotalism—the latter parties will either renew their exertions to obtain the same boards to other establishments sectarianized in conformity with their own opinions, or large numbers of the youth of the Province will be driven for their education to foreign Seminaries. But will the country which has a population of 800,000 souls, and whose resources and wealth augment in abundance for each session of its varied population, which will annoy them in a hostile attitude not against another coast thinking the other an individual with whom it would be unable to associate at the risk of losing a great deal by which he is not satisfied, the other struggling and resisting under an undeserved inferiority? And has the country generally no interest in seeing that its youth are educated within its own territories, and in taking care that their connexion is not such as may tend to alienate from its institutions those in whose individual genius and integrity it may repose confidence in the hour of difficulty and danger?

Let not the party who would offer such a compromise imagine that the acceptance of their unprincipled bribes by any of the moderate leaders would end the question finally as such; for even should the present generation barely better its rights, posterity will rise to reclaim them and while a remnant of the endowment is perverted to a sectarian purpose, the struggle for equality will be perseveringly maintained. The purchase of temporary repose would be a treasonable delusion;

general demands would be made upon the endowment—each successive demand with as much justice as the first—and the institution would only be relieved from annuities when participation in its benefits was no longer an object of desire.

No compromise—no fraudulent settlement, nor base bartering of rights, will terminate the struggle for principle, or diminish the resistance to a sectarian ascendancy. That resistance will not cease till the portals of the University shall be thrown open—and all classes and denominations shall, in the words of Locke, have—"EQUAL—ENLIGHTED LIBERTY—JUST AND TRUE LIBERTY—EQUAL AND IMPARTIAL LIBERTY."

CHAPTER I.

THE ORIGINAL GRANT.

The first public movement in Upper Canada, towards obtaining a provision for University purposes, was made in 1797, when the Legislative Council and House of Assembly concurred in a joint Address to King George III., "imploring that his Majesty would be graciously pleased to direct his Governments in this Province to appropriate a certain portion of the waste lands of the Crown, as a fund for the establishment and support of a respectable Grammar School, in each District thereof; and also a College, or University, for the instruction of youth in the different branches of liberal knowledge." To this address a favourable answer was transmitted, in a despatch from the Duke of Portland, to the Honourable Peter Russell, then at the head of the Local Government, in which his Grace communicated his Majesty's most gracious intention to comply with the wishes of the Legislature of his Province of Upper Canada, in such manner as shall be judged to be most effectual." With this view, Mr. Russell was directed to consult the members of the Executive Council, and the Judges, and Law-officers of the Crown, in Upper Canada, and to report to his Majesty's Government, "in what manner and to what extent a portion of the Crown Lands might be appropriated, and rendered productive towards the formation of a fund for the above purposes." On the 1st November, 1798, the Executive Council reported to Mr. President Russell, that an appropriation of 500,000 acres, or ten townships, after deducting the Crown and Clergy reserves, would be a sufficient fund for the establishment and maintenance of the royal foundation of four Grammar Schools, and an University, and that the proposed School fund should—when raised, be applied:—

1st. For the erection of the necessary buildings.

2nd. For the payment of the salaries of the Masters.

3rd. For keeping the buildings in repair, the purchase of books and philosophical apparatus, and other purposes essential to places of education, but in general too costly to be provided by individuals.

The Council also suggested that the towns of Cornwall, Kingston, Newark, and Sandwich were, at that time, the most proper places for the site of the four Schools, and that they considered York as needed to the University both as being the Seat of the Executive Government, the Legislature, and the Courts of Justice; and as being by far the most convenient spot in the province for all general purposes—its situation being nearly central and besides its access both by water and from proposed high road from its east end of the province to the other being necessarily to pass near it or through it. The Council proposed that two of the Schools—namely those at Kingston and Newark should be commenced first; and that, whenever the appropriated fund should be found sufficient,

the towns of Cornwall and Brockville should each receive a similar grant of the Royal munificence. In this manner they conceived that the limits thus appropriated would not only be amply sufficient for the establishment and support of the four Schools, but would be surely, if not quite adequate to the creation and endowment of the University, whatever the advantages of the Province should call for such an Institution, and they recommended, that the provision for the establishment and maintenance of the University should, at least, be equal to that of the four Schools taken together.

The precise details of the orders which was taken upon this Report cannot now be ascertained, but it will be observed that the original instructions are sufficiently indicative of the intention of the Home Government to place the educational assurances and their endowments under the control of the Local Legislature, at whose enactment the appropriation was made.

In consequence of the restless profusion of grants which planted the wild lands of the Province in the universal generation of a few proprietors, who could neither use them themselves nor render them subservient to the promotion of any public purpose, the sale of lands and the advancement of the country were very slow, and unquestionably for more than twenty years after the original appropriation, the School Lands produced little or no revenue. In 1818, the Legislature, to allow that something more than Grammar Schools was required, and all their limited means then permitted, or promising a small appropriation for the instruction of youth in physical science, and in 1807, a temporary act was passed by the Provincial Legislature, and made permanent in 1808, providing for the establishment of a School somewhat like a Grammar School, in each District. The District Lands, however, afforded no aid to the District Schools, which were interposition of the general endowment, and for the maintenance of which the Legislature was compelled to provide otherwise. In 1816, a like was passed for the further improvement and extension of Common Schools. This act was limited from time to time and when renewed in 1819, several amendments were introduced, while delusive very much from its title, particularly one which greatly reduced the appropriation.

The resolutions referred to were the consequence of the authority and exclusive views which had for sometime manifested themselves in the proceedings of the Executive Government. The High Church party had long monopolized all offices and influence and it is rarely that that party have given a willing support to any general system of Education. Least of all were they likely to afford any countenance to a scheme by which no blessings would have been equally diffused among all classes and denominations. They foresaw but of no valuable an endowment as the School Lands might eventually prove, were left to the disposal of the Legislature, the country would in all probability receive a plan of system of Education, unfettered by party or sectarian restrictions, and that a favourable opportunity would then be lost, of placing the ascendancy of the Episcopal Church on a solid foundation. In 1818 the growing importance of the School Lands attracted the attention of the Government, and the attempt was then made,

unfortunately was successful, to defeat the object of the grant by Parliament of diverting it from its original purposes. Without the consent, and indeed without the knowledge of the Legislature, by whom the School Lands had been held in trust, certain members of the Executive Government, among whom was Mr. Hamilton (then a leading member of the administration), secretly planned that effectual an arrangement by which the people generally might be deprived of all benefit from the endowment, by which the Legislature might be divested of its control, and by which the creation of the Grammar Schools might be postponed to an indefinite period in favour of an Provincial University, established on such exclusive principles as would benefit only the party to which the members of the Government at those times invariably belonged. A fraud more dishonest to the people has not been perpetrated in the corrupt periods of Provincial corruption, but the secrecy with which it was devised and enacted, effectually prevented it from the opposition of the Legislature. The scheme was not communicated in Parliament, and the railway was consummated without a single voice being publicly raised in defence of the new Act's rights.

A Committee of the Executive Council, on 7th January, 1849, reported that no legal or pay answer to the Report of the Council of 1st December, 1798, could be found in the Colonial Office—that as they were at variance with the Attorney General (Mr. Gilmour) that the Executive Council was not authorized, unprompted to maintain a grant in other patterns than insisted by His Majesty's Commissioners, they thought it proper to recommend that his Excellency Sir F. Maitland should call the attention of his Majesty's Government to a formal petition to "make some grant and disposal of the remaining acres of land for the purpose of establishing a University as previous for Normal Schools was not by them thought necessary out of this fund, their establishment and maintenance having been already provided for by the Legislature, and that in order to maintain the necessary dealings, the sum of £7000 would be required, with an additional sum of £4000 per annum for the payment of salaries and that a Committee should permanently attend, so as keep powers to act in and loose the land and manage its revenue, under the direction of the Executive Government." It was also considered "that it would conduce much to the regularities and utility of this proposed University if its Constitution should be by a Royal Charter."

If the necessity which existed for a University at the time when the population of Upper Canada did not exceed 150,000 when persons entrusted and public inspectorate were checked by every spec es of jobbing and extortion on the part of the Government could be attributed by the existence which the parties who supported the allocation of the School Lands must allow to be a reasonable one—namely the success of an opening after 25 years of unbounded commercial and agricultural improvement, after the country has quadrupled in population when the increased value of the lands has enabled the University to enlarge its annual expenditure from £3000 originally proposed by the Executive Council to nearly £15,000 when it has gone into operation with means magnificent beyond all precedent in the early history of any literary institution in America, and indeed

in the early history of any country with a library, philosophical apparatus, and an army of professors and officers, unsurpassed by any other educational establishment on this continent; and when, after being all along under the fostering care and direction of the very individuals who projected the establishment, it has not been able to maintain itself on first and second terms more than 30 years, it will appear sufficiently obvious that the Executive Government had other objects in view in fostering the abnormous than the general diffusion of Education among the people. If, however, the establishment of a University was their desired possession, in consequence of the increased number of young men who were pursuing their attention to the learned professions, the Government was bound to have sought the means from other sources than the School Lands, of which the Legislature were undoubtedly the trustees, and even if the claim of the Executive Council to the control of the endowment had been well founded, its diversion from the original object was a direct violation of trust, and of the stipulations and agreements which had been expressly made when the appropriation was first proposed. The Report of the Council in 1788 suggested the necessity of establishing the Schools before the University should be proceeded with. It expressly stipulated that in the first place the two at Kingston and Newark should be placed on a permanent and substantial foundation, and that "whatever the circumstances of the Province should call for the erection of two other Schools, and when first the appropriations here should be sufficient not only to bear the expense of the erection and endowment of those two Schools, but also to leave a surplus sufficient for the establishment and future maintenance of a Secretary of a larger and more comprehensive nature, the same steps should be pursued with respect to such two Schools as have been already recommended with respect to the two Schools at Kingston and Newark." But what steps had been taken for the erection of the Schools last proposed? It was not in 1807 the Legislature, finding it necessary to establish Grammar Schools for the instruction of the people and established the District Grammar Schools, but the Executive Government of 1820 were perfectly aware and some knew better than Mr Strachan, their acknowledged leader did however found the provision might have been when the population did not exceed 60,000. It was quite inadequate to meet the growing requirements of the Province from its unusual commercial wealth and population. But if the Legislature while the School Lands remained unappropriated, wished out of the constitutional means for the diffusion of education by direct taxation, it is difficult to see this in consequence of this step the people forfeited or surrendered their right to the endowment unless the lands became unsalable. It was obvious however that a popular system of education did not suit the views of the Executive Council by whom every attempt to introduce it into the Province had been steadily resisted and the establishment of the University was extensively regarded as an important feature in the great scheme then contemplated by the High Church party to Episcopalize the Province, and to incorporate the Church of England with the Government, as an appendage to the State.

The application of the School Lands afford prospective benefits of too valuable

a description to be left long unreported by the High Church party. In consequence of a great portion of the endowment having been suddenly subtracted from unlicensed land in remote parts of the Province of Ireland remained nearly inoperable. It was therefore proposed by the Council that a scale immediately to place the University on a substantial foundation, the School Lands now appropriated to the University should be exchanged for an equal portion of the Crown Reserves, which were looked upon as immediately available. The character of the proposed Institution was at the same time remarked on, and the exclusive Universities of England furnished appropriate models for the premises of this bulwark of Episcopacy. The only danger to be apprehended was the assumption of the religious schools of a name which popular opinion might appear against its accomplishment; but all care to silence popular discontent and to pardon themselves from future assent to the High Church party formed the design of entrenching their position by a Royal Charter which would thrust upon the Crown the odium of this liberal measure. It was, however easy to foresee that a Charter adapted to their design would not be obtained without misrepresentations of no grave a character that ordinary ingenuity and boldness might fail in the attempt, and as His Excellency Sir Peregrine Maitland had refused his consent to the exchange of the School Lands for the Crown Reserves; without special instructions from the Home Government, the high and impartial trust was reposed in Dr Strachan of proceeding to England and soliciting in person from His Majesty's Min ster the private consent of the people's rights—the sacred to be alienable even by themselves—and which, notwithstanding the upstage with which he is amply endowed, he would have shrunk from proposing to the people's representatives.

The result of Dr Strachan's mission to England is sufficiently known but his proceedings while there, from too common a chapter in the annals of the University to overlooked in this place.

CHAPTER II

THE ORIGINAL CHARTER

When application for the Charter of King's College was made, Lord Bathurst — bigoted High Churchman, and odious for his exclusive principles—held the seals of the Colonial Office. In him the High Church party of Canada reposed implicit confidence, and the most exciting proceedings were taken in order that a plausible case might be laid before the Secretary and his colleagues. The Dissenters of all denominations were calumniated and marked in every shape that the unscrupulous hardihood of the Press, and also the servility of the Pulpit could devise. They were stigmatized as Republican in their principles. That

charged in their affections—they were hardly regarded with ignorance and Christian, and were even made the object of systematic and cruel persecution on the part of the magistrates. It was thought that if the Ministry's Measures could be suppressed, with the idea that Dissenters generally were dissatisfied, measures would be adopted in Canada similar to those which had formerly driven the Puritans from the British shores, and that the Episcopal Church would be secured in those privileges and immunities which were enjoyed by the Establishment in England. But the best remains of the slenderest influence of High Church Arminianism was a Sermon preached by Dr Burnham, then Archdeacon of York, shamelessly previous to his departure for England, on the death of Dr Mountain, the first Bishop of Quebec. On an occasion of such solemnity it might have been expected that the shade of calumny and misrepresentation would have been sparingly used, and that over the ashes of the dead, asperities hostility would have yielded to milder and better feelings. But the benefit of those who are opposed to High Church sloginism, we subjoin a quotation of the points distinctions with which that Christian Archdeacon separated the names of his departed brother of Quebec:

"Know when christians are united, the adversary endeavors to frequently broken or injure by creation of fundamental external principles, who, having their minds preoccupied, become themselves to pursue the Gospel from schisms, or a deal without knowledge, by which they are induced without any persuasion to teach what they do not know, and which, from their pride, they disdain to learn.

"When it is considered that the religious teachers of the other denominations of Christians—a very few respectable ministers of the Church of Scotland excepted—those almost necessarily from the Republican States of America, who they gather their knowledge and form their sentiments, it is quite evident, that if the Imperial Government does not immediately step forward with efficient help, the mass of the population will be nurtured and instructed in hostility to our Parent Church, she will at no long distance become every thing but Episcopalian to the principal districts in England.

"It is only through the Church and its institutions, that a truly English character and feeling can be given to, and preserved in any foreign possession."

Previous to Dr Burnham's arrival in England the Colonial Secretary had been carefully prepared for the extraordinary demand which was about to be made. In a petition to his Majesty and the British Parliament, which he transmitted through Lord Bathurst, the Rector of York enumerated the following astounding facts

"That the population more greatly increased, and embracing in its bosom many denominations of Christians, still retains its preponderant feature of being attached to the Church of England and the members of which, together with the Dutch and German Lutherans, who join them in communion constituting by far the most numerous description of Christians in Upper Canada.

"That the very little progress made by the other denominations, compared to that of the Church of England, and the very recent establishment of their family congregations, has generally created in the minds of the people a conviction that it, as the established form of worship, is right in order: it has always been promoted by the Doctor and his friends, to the exclusion of the Presbyterian,

from their spiritual years. Such is now the state of the Province, and the means for religious instruction according to the forms and discipline of the Church of England that many intelligent persons will acquaintance with. Colonies will of opinion, that along the greater part of the main road passing from and Kingston to the Province to the other, a distance of nearly 400 miles, a Church might be erected, and a Clergyman practically placed at the distance of every few miles, and the excitement of the parishes already established

"That when new districts are planted in any country, not only those persons, readily join who are not particularly attached to any denomination, and among Presbyterians and Congregationalists attend public worship with their families, the first on many occasions the whole congregation have been assembled in the Church, and not only are there fixed hours according to its rules, but likewise the hours of their Festivals and seasons are frequently published from without places of amusement, and again consigned to their graves in the public burial grounds, with the solemn offices of the Church. However just and often are reproofs and censures by the heads of the Church and the greater number at length continued by the Bishops and a congregation in this is a few years formed, strongly attached to our venerable Establishment, and even in these remote districts of the country from Methodist itinerants are the most active, as soon as the population is sufficiently dense and united and begin to feel the want of a regular Clergyman, to form his congregation increasing by the gradual accession of their more respectable adherents.

"That *the Church is succeeding so rapidly as to offer great encouragement to respectable females to bring up their children in the sacred profession*; according to a list of *more than thirty students* now preparing for Holy Orders, and that the more strong ones than can possibly be provided for are presenting themselves to the Lord Bishop as candidates for Holy Orders."

"No objection is made by parents against teaching their children the Church Catechism and the services of the Church, but the Roman Catholic Priests on the contrary all the ornament and defence of attending both, for their own and the Romish edification. The whole neighborhood bring their children to the Protestant Clergyman to be baptized, and solemn or great festivals, both old and young, to the Holy Communion, and the youth to the Sunday Schools, and a few days after their tasks are learnt to walk in procession to the Church, in fact, there evidently appears the fairest prospect that the Church of England, from the favourable disposition that now exists towards it, will be able to collect within its fences the bulk of the inhabitants *should no progress of proselyting their Clergy* be held out to the various Protestant denominations.

"That, with the exception of the Methodists who have been decoyed by their brethren in England, and the latter induced on to increase from the United States, there appears no premature determination of Protestants in the Province but the Established Church, capable of existing public situations.

"There is no appearance in any other part of the Province of a fit congregation as existing here in the Kirk of Scotland as at present; nor is there denominator popular for whom the people leave the Established Church they claim the privilege of electing their minister from whatever quarter they please, unless the Kirk denies them. Indeed the Presbyterian form of discipline and Church government is inconsistent with attendance, as it cannot be exercised at first hand, nor can the clergy be placed in a similar colony under regular responsible relation."

Immediately on his arrival in England in 1836 Dr Strachan placed himself in communication with the leaders of the High Church party from whom he received encouragement on all of the heads of the Clergy and their endeavours

had assistance in obtaining an exclusive Charter. In England he openly avowed the design which he dared not to have breathed in Canada. In a pamphlet, which he published in London, entitled "An Appeal to the Friends of Religion, in behalf of the University of Upper Canada" he distinctly stated that it would be essentially a Missionary College "for the education of Missionaries of the Church of England"—and, as an inducement to the members of that Church to contribute towards the funds of the College, he announced that the effect of establishing this University would be ultimately to make the greater portion of the population of the Province members of the Church of England.

To the various parties with whom the Reverend Doctor corresponded previously, he urged every variety of argument, and, without much regard to consistency, he adduced every variety of fact. From the Society for the Propagation of the Gospel in Foreign Parts he solicited assistance on the ground of his "having been instrumental in establishing a scheme in Canada, by which the educators of the whole population are entirely under the direction of the Church." He informed them that there were in the Province "one million British Protestants" consisting of recent members of the Episcopal Church, and that his only antagonizing influence was which they had to contend was the existence in Lower Canada of 400,000 Catholics. To the Church Missionary Society he pointed much of that unfriendly information, and by way of showing that the establishment of a University in Upper Canada was necessary to their end in propagating Christianity among the heathen, he enlarged upon his own views and personal feelings towards the Indians, and solemnly acceded to a proposal for the Establishment of Scholarships, with suitable pendants, for the exclusive benefit of the Tribes.

But the most elaborate information in regard to the Ecclesiastical Statistics of the Province, and consequently of the Legislature of Provincial Union which is commended to the Hon. R. J. Wilmot Horton then Under Secretary of State, upon which consent might be granted for exclusive claims of the members of the Church of England to the benefits of the Clergy Reserves and the Land Fund, is the Charter he stated that, in connection with the Established Church there were 36 organized 36 places where there was regular or occasional service, and names of persons names given by the missionaries to the new settlements in their neighborhoods—43 c urches and 31 regular parishes. That here were 7 new sites of the Independent or Presbyterian order assuming to be established of the Presbytery of the Canadas, by having no connection with the Kirk—and as the Methodists have no set fixed clergymen, it has been found difficult to ascertain the number of persons a congregated. Actually presumed to be considerable, perhaps from 20 to 30 in the whole Province. The other denominations have very few teachers and those extraordinary ecclesiastics. One of the two presiding clergymen, in communion with the Church of Scotland, has applied to be admitted into the Established Church "

Dr Strachan's Letter to Mr Horton welcoming the Church, formation so much

important evidence of the great improvement upon which the Royal Charter was effected, that it is proper to recite it at length :—

"Sir,—I take the liberty of enclosing for the information of Lord Goderich, an Ecclesiastical Chart of the Province of Upper Canada, which I believe to be correct, for the present year 1827. And from which it appears that the Church of England has made considerable progress, and is rapidly increasing.

"The people are coming forward, in all directions, offering to assist in building churches, and soliciting with the greatest earnestness the establishment of a settled minister. Indeed, the prospect of obtaining a respectable clergyman, among a neighbourhood's members and wishes one is sure of a most kind consolatory disposition. In no part is any settlement to which he may be placed, to form the respectable part of the inhabitants like, as necessary emigrations. There are in the Province 150 Townships, containing from 60 to 100 families, in each of which a clergyman may be most lucrative employed, and double that number will be required in less than twelve years.

"When contrasted with other Provinces, the Church of England need not be ashamed of the progress she has made. The Church of Rome has only one clergyman in Upper Canada a survivor of the Church of Scotland. The gentleman brought up his two sons in the Church of England, of which they are now pupils priests. After his death his congregation was split in three divisions, which, with another collected at Kingston in 1822, count four congregations in all, to each are in communion with the Church of Scotland. There are at present only of the two Church clergymen now in the Province one has applied for Holy Orders in the Church of England.

"The members of the different denominations, with the exception of the Administration of the Church of Scotland, are Congregationalists, and a respectable Baptist Minister; who preaches to the Wesleyan Methodist Society. *Religious are for the most part from the United States, where they settle their knowledge and form their sentiments* Indeed the Methodist Societies are subject to the order of the Conference of the United States of America and I remember that the Colonial Government assisted the last one but there may others received over them *personal them from gradually resolving to be no portion of the population by their influence and instructions, hostile to our institutions both civil and religious when by no means the members of the Established Clergy.*

"Two or three hundred clergymen among a Upper Canada, as the midst of their congregations, and resolving the private portion of their incomes from Roads proposed in this county (England), must attach still more intimately the population of the Colony to the Parent State. This influence would gradually spread they would infuse into the inhabitants loyal and religious principles, and *supporting by degrees the services of education, which the Clergy of England have always promoted*, the very best feelings, sentiments and opinions of the youth as the best attention British."

Deceived by such representations and unmeaning terms of the vestry of the highest Episcopal Ecclesiastical of Upper Canada the Colonial Secretary in an evil hour, affixed his signature and the Royal Seal to a Charter in the terms required, and the Archdeacon of York was rewarded with a sum of £1200 for his invaluable and meritorious exertions on behalf of the Episcopal Church.

While a Royal Charter was first upon a system of as this country it was generally understood that, as it was the intention to be several appropriate Colleges for the Province, the Charter would be adapted to the existing state of the Province, and to the wishes and wants of its mixed population.

The consideration that disappointment, then were proportionably great where the provisions of the Charter be most known, and most penetrated into the University had been connected into a purely Episcopal College. In his Speech at opening the Parliament, on 11th February, 1808 his Excellency the Lieutenant-Governor said he was much pleased in announcing to you, that his Majesty has very graciously provided for the establishment of an University in this Province, and has bestowed means which will increase the early accomplishment of an object, long regarded by me as among those most to be desired for the welfare of the Colony:" for in that part of the Address the House of Assembly replied with becoming caution and reserve in the following words.

"We shall be highly gratified to find that His Majesty has very judiciously provided for the establishment and endowment of an University in this Province, of that principle upon which it has been founded which, upon mature, grave & deliberate in the advancement of it's learning and piety, and loyalty to the civil and religious liberty of the people."

In the same loose manner of the elaborate provisions of the charter having transpired, the indignation of the Province was effectually roused. It was willingly believed that His Majesty's Ministers had been deceived by crafty misrepresentation, and that if they had been fully informed of the condition of the Province, and the religious views and feelings of the people, the Royal sanction would never have been given, to a charter which denied their civil and religious equality. Petitions from all parts of the country were poured into the two Houses of Parliament, representing that the principles of the Charter were circumscribed as to the ministers presuming to, and ministrants of the civil and religious rights and privileges of the people. It was thought that a University adapted to the character and circumstances of the people, would be the means of inestimable benefit to the Province; but, to be of such service, the benefactions upon which it was established should have been in unison with the general sentiments of the country—that it should not be a nursery of politics or partizan views—and that it should have about it no appearance of a spirit of partiality or exclusion. That its portals should be thrown open to all sects upon terms who entered should any influence be exerted to attach them to a particular creed or Church. That it should be a source of intellectual and moral light and information from which the genuine exuberance of literature and science might descend upon all with equal lustre and power. But if Kings College under the Charter formed on it was for the exclusive advantages of a single Church, and that a minor one, should be suffered to go into operation, without material amendments in its provisions, and without another College being established for the general benefit of other religious denominations, the inevitable consequence would be that the native youth of the Province, receiving a public education would, with the exception of Protestant Episcopalians be generally sent out of the Province to finish at at College where they could be taught classical learning and the arts and sciences without prejudice to their religious principles and feelings. Parents who were conscientious in their profession of religion would not willingly put their sons, in the unguarded season

ed grants, under a pretext of religious exemptions to a different faith; and this people felt that to be thus excluded from the offices and honours of the state College in the Province, and subjected to tributary as well as ecclesiastical contributions, for no other reason than that of adhering to the dictates of their conscience, was an unmerited degradation. It was at once perceived that the grand policy of the High-Church party in Episcopalian the Province had come into operation, and that this was one great step towards the establishment of a minor Church, with exclusive privileges and supremacy, over a dissenting majority of the population—declaring her form of religion to be the established religion of that Province, and her ministers the only Protestant Clergy, granting them alone all emoluments and immunities, and a portion of the education of youth by means of the University. It was felt that such a system would, as it had been in Ireland, be a perpetual source of religious and political animosity—that it would give one Church a permanent superior interest in the other more numerous Churches—and that all those other Churches, actuated by a hostility mutually and democratic, would be inclined to make common cause in their own defence to counteract to the dominant Church.

It was therefore thought that his Majesty's Government could never have contemplated the institution of its foundation, by establishing the University upon such narrow and mean grounds from its benefits the greater part of them for whom it was originally intended, or rather those at an age ill qualified to guard against such schemes to the ideal but powerful influence of a prevailing and popular system of proselytism; and that they could not have been aware of the discontentable agitation to which from the circumstances of the country and the sentiments of the people, some of the provisions of the Charter were liable.

Petitions were at the same time presented to Parliament by various denominations of Christians, praying an inquiry into the truth of the charges and statements made by the Archdeacon at York, relative to the character and intentions of the respective clergy; whether the allegations as to their non-residence or their neglect of the Glebe lands were true; and whether the Clergy Reserves, which had been set apart for the purpose on which the University was established, were referred to a Select Committee of the House of Assembly to be sworn to and for persons and papers, and a report thereon. The Council has performed their duties with the strictest impartiality before proceeding to the examination of the Charter and Chart, the Chairman transmitted to Dr Strachan a copy of one of the petitions referred to them, and intimated his that they would be happy to receive from him any information upon the points submitted to their consideration. To this communication Dr Strachan returned an answer, declining to avail himself of the Committee's offer to receive explanation, but adhering to the statements which he had made in England. "For my opinions," he wrote "I am responsible to no one. I had an undoubted right to express them and they were therefore publicly and openly expressed. No Committee could have prevailed upon me to deny or non-state them but in applying them every candid mind will feel that the general expressions used admit the existence of exception. I desire to only to be heard in relief that they

were given from memory," a circumstance which Dr. Strachan took especial care to conceal from Mr. Horne. The Committee framed a list of fourteen questions, and examined in all fifty-two witnesses. Among the witnesses were all the Members of the House of Assembly, whose testimony they could obtain; some Members of the Honourable the Legislative Council of long residence, high standing, and large possessions in the Province; various Clergymen of different denominations in York and its vicinity; and a few other individuals of high respectability.

The questions put by the Committee, related, among other things, to the birth-place and education of the ministers of the various denominations; their residence of the particular part of the Province; the moral character of the Province; the general increase of the Episcopal Church; and the tendency of that population toward it; the wishes of the inhabitants of Upper Canada in regard to the establishment of one or more Church-of-England Clergymen in the Province; what peculiar rights, privileges or endowments; the inhabitants in particular of the Clergymen of the various denominations; the proportion of the members of the Episcopal Church to the whole population of the Province; the attachment of the settlements to it which was the most numerous denomination of Christians in the Province: the general ignorance of the teachers of the various Christian denominations; and the accuracy of Dr. Strachan's Ecclesiastical Chart of the Province.

The interrogatories elicited a mass of curious and interesting information on the early Ecclesiastical history of Upper Canada—and in every important particular Dr. Strachan's statements were proved to be false by the most irreproachable testimony.

The assertion in Dr Strachan's letter that "the people are coming forward in all directions offering to assist in building Churches, and supplying, with the greatest anxiety, the establishment of a settled Ministry," and that "the tendency of the population is towards the Church of England, and nothing but the want of sufficient support prevents her more speedy filling the whole Province," was completely overthrown by the evidence. It was proved that although the Episcopal Church had always enjoyed peculiar advantages in Canada although it had been the religion of those high in office and had been supported by their influence and countenance more than any other Church by the favor of the Executive Government—that although no clergymen but possessed the exclusive right of marrying persons of all denominations—and that although the clergymen of the Episcopal Church had also been liberally supported and their Churches partly or wholly erected and maintained from the funds of a society in England—still the number of members of that Church had not increased; the upper population had at first of several other denominations, and the opinion of the witnesses was decidedly expressed that the tendency of the population was not toward that Church. On the other hand, the highest testimony was offered to the disinterested and unblemishable exertions of the Methodist, Presbyterian and other clergymen, who had been unbefriended by Dr Strachan's patronage,

inducements. Their influence and instruction, far from having the very opposite to the intent of a wisely-framed law, the religious and political inducements of the Protestant, had been sacrificed, in the highest degree, to the aggrandizement of their heresies from Revolutionary and the effusion of current impiety, the formation of all moral loyalty and social order. There was no reason to believe that, as religious bodies, they had loyal inducements, by perhaps one single example, as a standing army, as attachment, or discouragement, a chastised and conscientious obedience to the Laws of the country.

Connected with the whole population, the members of the Church of England were found to constitute an extremely small proportion: this subject the Committee had every reason to believe [illegible] will necessary. Besides obtaining answers from clergymen, chosen by very minute questions, a Committee was appointed to hold Meetings at York, called the Central Committee at Upper Canada, and were directed to correspond with the other parts of the Province, to suggest the appointment of Provincial Committees, and to request that they would immediately collect and transmit to the Central Committee at York, accurate information respecting the number of persons belonging to the religious denominations in their neighbourhood. In consequence of these instructions, communications were received from the various parts of the Province, containing correct and full information upon this subject, obtained from personal knowledge or inquiry, and authenticated by the signatures of respectable inhabitants. A Chart was framed from the materials thus obtained, and presented, in the opinion of the Committee who spoke to it, a very complete and fair view of the number of inhabitants of the different religious denominations in the Province. The information received by the Chart is completely and satisfactorily contradicted and [illegible] Dr Strachan's statements, and bears no materially on the question whether a Charter grant on false representations and contentious insinuations, should not be set aside and cancelled, that an Act [illegible] Chart [illegible] Dr Strachan and by the Committee of the House of Assembly supported by

ABSTRACT OF THE STRACHANITE ECCLESIASTICAL CHART

FOR THE YEAR 1827

DENOMINATIONS.	Clergymen.	Places of Worship.	Churches built or building.
Episcopalians,	39, and 1 under consecration.	38 places where regular or occasional service.	44, six of them building.
Kirk of Scotland,	8, two others ordained.	4	
Independents, Methodists,	5 From 20 to 30.	5	

* As no Methodists here an ordain Clergymen, it has been found difficult to ascertain the number of itinerants employed, but it is presumed to be considerable—perhaps from twenty to thirty in the whole Province. The other denominations have very few teachers, and these eventually very important. One of the two remaining Clergymen in communion with the Church of Scotland, has applied to be admitted into the Establishment Church. See Strachan's Book.

ABSTRACT OF ECCLESIASTICAL CHART PREPARED BY COMMITTEE OF THE HOUSE OF ASSEMBLY

REPORTED MARCH 8, 1836.

Provinces &c.	No. of Bishops or Superintendents.	No. of Rectors, Parish Churches.	No. of Parish Churches.	No. of Ministers of the Established Church.	No. of Ministers in Foreign countries.	No. of Licensed Teachers.	No. of unordained Teachers.	No. of Missionaries to Foreign countries.	No. of Missionaries to Canada.	No. of Clergymen of the Church of Rome.	No. of places of Protestant worship.	No. of places of Romish worship.	No. of regular Priests.
Nova Scotia,	1	17	16	17	0	10	16	0	10	0	0	0	0
New Brunswick,	1	15	14	15	0	8	10	0	8	0	0	0	0
Prince Edward Island,	1	10	10	10	0	5	10	0	5	0	0	0	0
Newfoundland,	1	10	10	10	0	5	10	0	5	0	0	0	0
Bermuda,	1	4	4	4	0	2	4	0	2	0	0	0	0
Bahama Islands,	1	4	4	4	0	2	4	0	2	0	0	0	0
Jamaica,	1	20	20	20	0	10	20	0	10	0	0	0	0
Barbadoes,	1	11	11	11	0	6	11	0	6	0	0	0	0
Antigua,	1	5	5	5	0	3	5	0	3	0	0	0	0
Dominica,	1	3	3	3	0	2	3	0	2	0	0	0	0
St. Christopher's,	1	3	3	3	0	2	3	0	2	0	0	0	0
Nevis,	1	2	2	2	0	1	2	0	1	0	0	0	0
Montserrat,	1	2	2	2	0	1	2	0	1	0	0	0	0
Tortola,	1	2	2	2	0	1	2	0	1	0	0	0	0
Trinidad,	1	3	3	3	0	2	3	0	2	0	0	0	0
Tobago,	1	2	2	2	0	1	2	0	1	0	0	0	0
Grenada,	1	3	3	3	0	2	3	0	2	0	0	0	0
St. Vincent's,	1	2	2	2	0	1	2	0	1	0	0	0	0
Barbuda,	1	1	1	1	0	1	1	0	1	0	0	0	0
Anguilla,	1	1	1	1	0	1	1	0	1	0	0	0	0
Dominica,	1	1	1	1	0	1	1	0	1	0	0	0	0
Upper Canada,	1	44	44	44	0	22	44	0	22	0	0	0	0
Lower Canada,	1	50	50	50	0	25	50	0	25	0	0	0	0
Malta,	1	1	1	1	0	1	1	0	1	0	0	0	0
Gibraltar,	1	1	1	1	0	1	1	0	1	0	0	0	0
Ionian Islands,	1	1	1	1	0	1	1	0	1	0	0	0	0
Total,	30	249	247	249	0	124	249	0	124	0	0	0	0

NOTE.—The Roman Catholics are not given in the Chart, but it is well known that they were equal a number to any other denomination in the Province. There was also a considerable number of Lutherans and Quakers, of whom no notice seems to have been taken by the Committee.

No certain means to have been obtained from the Ecclesiastics of the number of regulars. Rectors. It would be impossible to instruct a competent agent about approach. In a "Report of the Society for the Propagation of the Gospel in Foreign Parts, for the year 1831" it is stated that "the governors society of Church of England establishments already sent Kings during that year" was 200 "

That the grand policy of the High Church party was to Episcopalize the Province by means of the University was now sufficiently obvious from the unequivocal sentiments of their acknowledged leader, who candidly avowed that was the natural tendency and effect of putting into the exclusive hands of the Episcopal Church, the only seminary of learning in the country where a liberal education could be obtained. It was obvious, however, that there was in the minds of the people generally, a strong and settled aversion to any thing like an Established Church—this very attempt to invest the Episcopal Church with peculiar rights and privileges, from which the other sects were excluded, excited the greatest alarm and jealousy throughout the country. It was felt that it would be impolitic, as well as unjust, to exalt that Church, which embraced no small a minority of the inhabitants, by exclusive rights above all others of her Majesty's subjects, who were equally conscientious and deserving; and that the jealousy and alarm of the people were sufficiently well founded was but too obvious from the imminent peril into which the Province was brought at which was sent down to the House of Assembly by the Lieutenant-Governor.

It appeared that the following were among its provisions:—The Bishop of the Diocese was to be visitor and as such might disapprove of the by-laws made for the College by the Council, which thereby became void, unless His Majesty in Privy Council afterwards reversed the order: the Governor, Lieutenant Governor or person administering the Government, was to be Chancellor; the President was to be a Clergyman in holy orders of the Church of England: the Honourable and Venerable Doctor Strachan, Archdeacon of York, was to be the first President:—the Corporation was to consist of the Chancellor, President, and Scholars of Kings College, and was authorized to sue and hold real Estate, and according to yearly value of £10,000; the College Council was to consist of the Chancellor President, and seven other persons who were to be Members of the Church of England, and to sign the thirty-nine Articles of that Church, previous to their admission into the Council: the Council were authorized to confer by diploma on the College and all those professors who, and no person test or qualification should be required of or supported for any persons admitted or matriculated in Scholars in the College except that those admitted to the degree of Doctor in Divinity should take the same declarations and subscriptions and into the same oaths as are required of persons admitted to any degree of Divinity in the University of Oxford. The Chancellor President, and Professors of the College, and all persons admitted in the College to the degree of Master of Arts, or to any degree in Divinity Law, or Medicine, who, from the time of such admission should pay the annual sum of ten shillings, towards the support of the College were to be members of the Convocation.

Such were the exclusive consolidation and government against which an institution professedly designed for the promotion of science and learning among the people of Canada? That a Charter so violently repugnant to the feelings and convictions of the community should have been resolved to by any of the

High Church party, were of course to have been expunged: but that the British Government should, on a matter of this kind, have shown any disposition to grant indulgences in its translation experiment: its intercourse neither with the spirit of the age, nor with the principles which had for some time governed its domestic policy, can only be attributed to the fear—of which abundant proof has been given—that it was grossly deceived and imposed upon. And even were there such a suspicion amply documentary evidence to support the charge of deception, how otherwise is it possible to reconcile the policy of that Government which had appointed indifference at home, and was about to range upon one wide and unexplosive and unexplosive, civil, religious and commercial which had recently tortured the Ministers of the whole East and Constantinople itself which was disturbing the blessings of a national tranquillity among the people of Ireland, without distinction of creed; and was about to send lay and glorious into the bosom of the Roman Catholics, with the exception them of Catholic Emancipation—with the establishment, in a country adjacent with free principles, and in a vast community composed of Christians of different habits, and worshipping under different forms, of a Dictionary unparalleled for an exclusive character and odious distinctions by any ecclesiastical Statutory as the conquest of Europe: Oxford and Cambridge indeed formed exceptions to the universal abandonment of tests—and even there, religious restrictions were only defended and maintained on account of the old and ancient connection and practical connection of those two Reformed Institutions with the National Church. Yet on the first and Candidate examination religious distinctions were comparatively seen, and had been imposed at a period—by no means the brightest on their annals,—when genuine freedom was almost unknown, and when speaking of liberty, or expressing any sentiment favouring of schism was sufficient to bring a man within the fangs of the Court of High Commission.

But when this Charter of King's College was established such unpleasant principles had been repudiated by every State in Europe, and even more than this—the element of religion had been abandoned in all the great National Universities. In France, in Germany and in Austria, persons of all religions were freely admitted into the Professors' chairs. In the University of Bologna, where the Papal authority was paramount there was no exclusion on the ground of religion. In Pisa, its professions were recognised also, as proof of fact, Mohammedans, Jews, Greeks and Turks were indiscriminately admitted. Indeed it frequently occurred that some of the Professors' Chairs were filled by English Protestants and one circumstance sufficiently attests the total absence of that fanatical intolerance which seemed to have been put to flight in Europe to find a refuge in the Academies of Canada. When a Mohammedan takes a degree at Pisa, the Chancellor who is generally a Vice-general or Archbishop, kneels the altar and the Vice-Chancellor whose religious scruples are not necessarily under the influence of Church pretensions—presides at the ceremony. At Padua, the chair he has been frequently filled by foreigners—by members of the Church of England—by Presbyterians, and by Calvinists. There, in the Roman, Venetian,

and Austrian Burse, there was an absence of jealousy and religious animosities at the Roman Catholic Universities. Nor was there any disposition to interfere with rational conclusions and the rights of private judgment exhibited in the universities in any part of Protestant Europe. In Bonn, Breslau, Breslau, and Copenhagen, the Universities were open to all. In Louvain the Professors might be Roman Catholics; and in Copenhagen, one of the chairs was, at the very time the Charter of King's College was obtained, filled by a Jew. In the Scottish Universities, the Test Statute originated in the zeal of the anti-patronage Presbyterians after the Revolution, and was enacted by the Scotch Parliament for the sole purpose of excluding Episcopalians from the Colleges, at a time when Episcopalians and members of the Society of Friends were consigned to the same terrestrial or infernal. For many years, however, the Statute had been evaded, and its enemies winked at by the constituted authorities, and it is somewhat remarkable circumstance, that a purely liberal scheme of Episcopalian Professors, Lecturers, and Students into the Scotch Universities seems to have been attended with no very fatal result. Indeed, while every University in Europe was practically thrown open to persons of all religious persuasions, Oxford and Cambridge alone were close; and yet modified upon those exclusive establishments, to which High Church principles have ever been dominant, and a violent and bigoted hostility to the claims of Dissenters, but even here unabashed,—the attempt was made to establish a University, intended to be the liberal and nursery of educated englishmen, in a locality whose very atmosphere was freedom,—whose infancy and growth, unlike that of the European States, had not been stunted by oppression—but which had sprung at once into the full manhood of liberty and the possession of political rights; among a people who had ever stood the most inveterate foes to all forms of dominant Church, and a certain jealousy of religious distinctions, and whose proximity to a land of free institutions, undeniably made them chary under any galling supremacy which might expose them to the miseries of their former persecutions.

Were the character of Lord Bathurst less underrated, or were the blind and bigoted zeal of the High Church party in England, as well as in Canada, less violent and unyielding, it would be difficult to conceive how the gross and calumnious misrepresentations of the Archdeacon of Cleveland were brought into the light of the nineteenth century for which he is remarkable, should have escaped detection. Certain it is, that within the space of a few months, he had published statements, not on a par with romance with the truth, but most wickedly contradictory to each other. Thus, for instance, in his sermon on the death of the Bishop of Quebec, he complained that, previous of all denominations are increasing on every side" while in a letter to Mr Herkin he affirmed that "the Church of England is rapidly increasing," and that "the tendency of the population is towards that Church." In the sermon he admitted, that "even where churches were erected the pastors who gave regular attendance are so few as greatly to discourage the ministry," while in the other he asserted that, "the people are coming forward to aid devotions, offering to assist in

building literature, and assisting with the greatest necessity the establishment of a settled ministry." In this resolution statements which he placed forth in England, he unhesitatingly asserted, that "the members of the Church of England were the most numerous of any religious denomination in the Province;" but what astonishment can only be a Parliamentary Committee in reference to the truth of that statement, and conclusions with persons intimately acquainted with the state of the country, he admitted that "the never large relative number of members belonging to the Church of England, and that he could not tell how numerous they were." Such are only a few of the glaring inconsistencies and contradictions which pervaded the written and public utterances of this Episcopal dignitary: and just as little as written was the Social Administration with the principles and feelings of the people, and as little were those principles and feelings Bourgeois understood, by the British Government, that colonization and non-settlement were inseparably believed, and, without further inquiry having been conducted, upon under the pretext for the establishment of an Episcopal Bureaucracy for the emoluments benefit of an unscriptural hierarchy of a monarchy.

It would be a needless but much curious and apt subject-matter speculations to inquire by what irresistible arguments of a verbose and logotist persuasion, a Colonial Minister could be induced to assail the contentions, and to trample on the liberties of a free people. It were impossible to ascertain the motives and object, but that was openly avowed, and in fact, it formed no part of his plan to conceal his ultimate design. His undisguised and avowed object was to Episcopalize the Provinces, and on the peculiar means for obtaining so desirable an end, he proposed that a fund, equally appropriated for the purposes of general education, should be applied to the endowment of "an exclusively Missionary College, for the education of missionaries of the Church of England," which he thought, would be "the most expeditious and cheapest means of the Church Establishment as would speedily relieve the Province to the ecclesiastical jurisdiction of that Church. And by what temporal pleas and treacherous sentiment as the Colonial Minister induced to gave his Majesty's sanction and a refusal of a reasonable and unobjected scheme to suit the Canadian people of their birthright? Does the remonstrants Archdeacon inform the Colonial Secretary that there are those denominations in the Province more numerous than the Church of England? Does he tell him what, as a minister of Truth, he had but a few months before told the people of Canada from the pulpit, that "whose churches are crowded the persons who give regular attendance are so few as greatly to discourage the minister" and that "ministers were increasing in every side?" Does he intimate that the means for the diffusion of general education are deplorably deficient, and that the endowment originally set apart for that purpose had never become available? Or does he hint the people's perception of the character with whom he had to negotiate, to keep the persons by revenging hand of hate, but he at once avows in the old argument practically current out by he forums, and which still had its admirers among the High Churchmen of England. He informs the Secretary that the dissenting preachers are low and ignorant and that their learned are

dissolved. The measures were ignored—and yet he would exclude them from the last extremities which the country could afford! They were dissolved—and yet he would drive them for their education to foreign seminaries, where their principles might be endangered! Their children were placed in situations precluding the highest education of the mind—and yet he would debar them from the means of qualifying themselves for the discharge of those duties which their situation imposed upon them! He would exclude them from knowledge—and yet punish them for ignorance! He would rail against their prejudices, and yet proclaim them from the enjoyment of those civil privileges which were open to others by partiality and favouritism! Admirable High Church logic! Generous exuberance of High Church philanthropy! It is not impossible that the love of classical allusion which recently inspired the venerable Bishop of Toronto, in his luminous comparison of the principle of University Bill with the policy of "Pagan Rome, which, to please the nations she had conquered, condescended to associate their inferior deities with her own;" may also have sufficiently suggested to the erudite Archdeacon of York, a parallel illustration of his Church doctrine in the Emperor Julian's celebrated decree, which prohibited all Christians from the study of heathen learning—for, reasoned this practical and prosaic expounder of High Church policy—"they will second we will own your weapons they will converse to with our own arts and manners." Alas! how fatal to the peace and prosperity of Canada—how disastrous to the interests of true religion has it been, that this proselytizing Puritan, and the intolerant party with which he is associated, should never have been able to discover, that if the principles of Episcopacy are so conducive to loyalty and good government, no more effectual method could be devised for defeating the dissentient wishes the bulk, as well as the consistence as of the Colonist mind than by making it point to it all and unreserved grant patron over its members in the pure ages and benefits to be derived from the general hostile state of the country.

CHAPTER III

PROCEEDINGS IN PARLIAMENT

Dr. Strachan's outrageous misrepresentations drew down upon him the indignation of the whole Province. Numerous petitions from every part of the country and from Christians of all denominations were addressed to the Provincial and Imperial Parliaments, emphatically denouncing the insolence which had been lifted nearly equaled to him. Many who had been previously partisans were now roused into active exertion. Pub c meetings were held at

[1] See Bishop Strachan's Memorial to its Legislature, against the University Bill, in 1843.

York and various other places, where opposition was finally given to the resignation which was universally felt at the illiberal and exclusive provisions of the Charter, and the base accusations by which the character of the Clergy had been stigmatized. This fresh attempt to trample on their civil rights was viewed by the people as part of that system of religious intolerance lately which they had long groaned, and of which Dr Strachan had been the chief promoter.

Year after year he had opposed a Bill to allow the Clergy of the various sects to solemnize marriage among their own Sects and through his influence unfortunately, a Bill embodying the different denominations to hold lands, which had been repeatedly passed in successive sessions by the Assembly, was rejected in the Legislative Council Ireland by direct injury and indignity at the manner in which their representations had been received by the Local Administration, at once at length resolved to make a solemn and direct appeal for redress to the Parent Government, and, at the same time, to call the attention of the Imperial Parliament to the degrading position in which the people of Canada had been placed by the local Government. Accordingly at a Public Meeting, held in York, in the beginning of 1836, an Address to the House of Commons was agreed upon and, after reviewing the oppressions of the Charter, and all the discriminating acts transmitted in his Home Despatches of 1819, 1820 and 1821, by Lord Bathurst, which had been passed in the Assembly, the following Clauses of the Address were introduced

for the extension of all sincere, where the Parliament are supposed to belong to that sect which sometimes only a mark past of the population. Of other Clergymen, there are one hundred and seventeen Methodists, twenty-five Baptists, and about forty or fifty of other denominations. So far from all of them having been educated in the United States, one hundred and thirty three of the Methodists and Baptists, though only eleven of the Ministers of the Church of England, were all born and educated in His Majesty's dominions. These were the slenderest representations made by Dr. Strachan against so respectable a body as the Clergy of Upper Canada. The Clergy alone do not deem themselves injured by these statements: their congregations also, and many considered themselves calumniated. The petitioners stated to any one being particularly selected for preference and patronage; and they present the House that Parliament of all others was bound to enjoy the blessings of religious liberty, and, according to their talents, worth and knowledge, to encourage and support it. How nearly have the statements of Dr Strachan are respecting the character and conduct of the Methodists, may be inferred from the manner he has received as to his assertion that a large proportion of the members of the Assembly belong to the Church of England. The Legislative Assembly of Upper Canada have lately agreed to this effect: "That the number of members of Protestant Episcopal Church in Canada be very small, in proportion to the number of other Christians, notwithstanding the peculiarity and exertions by the Clergy from the Society in England, and the preferences in the monopoly of the Clergy Reserves. This resolution was supported by twenty seven members out of the thirty who compose the Assembly. It is a remarkable denial of the statements of Dr. Strachan, which are shown to be unfounded in every respect, and unworthy of belief. The personal predilections, or his hopes, and fears may have a tendency with the people of Upper Canada to favour the Church of England, which on the first representation of it, has obtained an undue degree of influence in the minds of only one-tenth of the population. He is acting always in a manner to excite the strongest by hope of the Colony against it as an Establishment to which he belongs. The power of Lord Castlereagh has been endangered by the conduct of Archbishop Strachan. His exultant late produced more discontent than any other injured whatever. That irreverend gentleman has been rebuked again upon the other religious denominations, and what has been the consequence? There is every prospect at the Province that did not declare the letter to be a slander, and the House of Assembly by a majority of 27 to 3 declared it to be gross and slanderous. I tell on the Province. And of the Government of the writ, the answer? No—the individual was allowed to remain, and no interference on the part of his Attorney-General was made, although if a Minister or any person belonging to any other sect had written such letter on that of the Archbishop at an official moment, or would have been inevitable. This man ought not to be allowed to go on and create discontent throughout the Provinces."

A copy of the Charter having been transmitted by he Lieutenant-Governor to the Legislature Assembly He now more created much dissatisfaction and were severely reconsidered on. The House ordered a copy of the Report of their Committee, or in the evidence which they had procured and the Charta formed an unpleasant discussion, to be transmitted to the Imperial Parliament, and, at the same time adopted the following Address to the King which was passed by a majority of twelve in a House our proof of its extraordinary

—TO THE KING'S MOST EXCELLENT MAJESTY

– Most Gracious Sovereign

– We your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled humbly beg leave to represent to

your Majesty, that we have seen, with equal surprise and regret, a Letter and Ecclesiastical Charge, addressed by the Archbishop and Venerable Doctor Strachan, Archdeacon of York, a member of your Majesty's Executive and Legislative Councils of this Province, to the Right Honourable R. J. Wilmot Horton, Under Secretary of State for the Colonies, as they are injurious in some important respects, and are calculated to lead your Majesty's Government into serious errors.

"We beg leave to inform your Majesty, that of your Majesty's subjects in this Province, only a small proportion are members of the Church of England; that there is not any parochial residence for that Church among the people, and that nothing could more increase alarm and grief in the minds than the apprehension that there was a design, on the part of your Majesty's Government, to establish, as a part of the State, one or more Church establishments of Christians in this Province, with rights and endowments, not granted to your Majesty's subjects in general of other denominations, who are equally conscientious and zealous, and equally loyal and attached to your Majesty's Royal Person and Government. In influencing honestly the minds of their respective congregations in the good and important subject of religion, the latter have never been conscious that they have violated any law or obligation of a good subject, or done anything to forfeit your Majesty's favour and protection, or to exclude themselves from a participation in the rights and privileges enjoyed by your Majesty's other subjects.

"We humbly beg leave to assure your Majesty, that the acknowledgments in the Letter against the Methodist Preachers in this Province, do much injustice to a body of pious and deserving men, who, we firmly believe, have given effect to the spiritual instructions in a large portion of your Majesty's subjects in this Province. We are impressed with the belief, that the unwarrantable attempt to connect its ministrations by an act not sanctioned by any nearly honourable religious and moral principle—that the followers are entitled to make the people better men and better subjects and be a virtual proof that in this Province the happiest effects.

"While we hold out grateful appreciation your Majesty's gracious intention in granting a Royal Charter for the establishment of an University in this Province we would feel most respectfully to represent that, as the general body of your Majesty's subjects in this Province are no members of the Church of England, they have seen with grief that the Charter contains provisions which are calculated to create the most unfounded jealousies in the particular interests of that Church, and to arrest all from its collegiate and honourable walks as not belong to it. In consequence of these provisions, is feared will be confined to a favoured few while them of you Majesty's subjects be more concerned and equally loyal and deserving of your Majesty's paternal care and solicitude would be shut out from a participation them. Perhaps a tendency to build up one particular Church to the prejudice of others, and thereby to be an object of jealousy and danger. Its influence as soon as it began to act upon these accounts, be limited and partial. We therefore humbly beg that your Majesty will be pleased to listen to the wishes of your Majesty's people in this respect and to cause the present Charter to be amended, and congregated free from the objections to which embodiment by a society on of you Majesty's people and generous feelings to your loyal subjects in this Province as well as by a sense of duty as by proper and a decree sign of the subject we have presumed to address.

"*In Committee House of Assembly,*
"28th March 1826."

JOHN WILSON, *Speaker*

The usual excitement throughout the Province, caused by the arbitrary attempt to establish a dominant Church, is reported by a principal of very

assure a people in the last degree hostile to their pretensions, at length attracted the attention of the British Government, and, as the manner of Mr. Robinson, then Colonial Secretary, in acquiescing with the wishes expressed in the Canadian petitions, a Committee of the House of Commons was appointed to investigate the whole subject of the Civil Government of the Province. In the reformed debate which took place on this motion several distinguished members expressed their strong disapprobation of the principles of the Charter of King's College, and foreigned against the assembly of learning the exclusive predilections of the English University upon a people who had avowedly opposed the introduction of law into the domain of conscience and religious opinion. Sir James Mackintosh the gifted philosophy, statesman and barrister, on this occasion, observed:—

"Behavenly may be entered, where they are founded by authorities of establishment, and by a large and well-known system of law, but I do not see any reason for making them new, in a new land, where the religion is different from that of the Church in which they are established. So, I understand the regulations which have been made for the new College of Upper Canada. I am well acquainted, that as a matter of fact, the members of that College do not belong to the Church of England, but Professors must all subscribe the Thirty-nine Articles; or that I am aware. Such tests were once in force in the Professor's Chair of Political Economy; and if Dr Black were alive, he would be excluded from the Chair of Chemistry. In short, those regulations would create almost all the great disputes and dissensions among the Irish sept, were they in existence, and that too in a country where no such thing as a Test Act is known. I do not know what will be the consequence of such an arrangement. I cannot see by what process of law it could be enforced. I suppose that the members of Canada will take a College which is founded on the principles of America, with the same air as a Church which is part of the religion. I see a bad augury I think, for the administration of the colony and I confess an alarm. For I am very much afraid, that, if we do not find out how to reconcile classes for a colony which is now dismissed miles distant from us. If a person in Ireland or any should have made the regulations of which I complain, we ought to interfere to prevent an open law."

On the same occasion, Lord Stanley the present Secretary for the colonies, then improved his text:

"I share it be truly to contend if I were now sitting on the committee, that if any exclusive privileges be given to the Church of England the measure will be opposed to every principle of sound legislation. — I cannot refer further than to the recent measure, agreed to without any hope that the House will carefully guard Canada against the evils which religious dissensions have already produced in that country as it is in Ireland, where we have examples of both evils to shun. We have seen the evil consequences of this system at home. God forbid we should not profit by experience, and more especially so by shutting it to people borrowing on a country where so gross intolerance and so gross intolerance are unknown! I am apprehend that her Majesty's Canadian subjects should not have occasion to look across the narrow boundary which separates them from the United States, and see any thing there to envy. We should bear in mind the noble plan of a liberal and comprehensive policy and be chiefly by none of those establishments, which at home go hand, it is necessary to observe with respect to previous subsidies and existing properties. There we may begin de novo—there we may follow the most intellectual liberal;—the soundest and most prudent policy we can adopt. We may thus preserve our friendly relations with Canada,

both as the Parent State while she remains a Colony, and when, in the course of ages, she become independent as an ally."

During the course of their investigations, the Chancellor of King's College was brought under the notice of the Committee, and, as a consideration of its pretensions had been warmly urged on all the petitions from the Upper Province, the Committee took great pains to ascertain accurately the Ecclesiastical Statistics of the country. Presenting upon the voluminous evidence on which they collected from persons of unquestionable character, they reported that the most important assertions of the petitioners had been completely proved, and the result of their general inquiries was to suggest many liberal views of policy and important changes in the administration of affairs. On the subject of King's College they entered cordially into the views of the petitioners, and as the Report of this Committee contained for many years to form the text-book by which the Colonial Ministers professed to be guided in examining their instructions to the successive Governors, it may be proper to quote from its recommendations in reference to the University:—

"The attention of the Committee having been drawn to the establishment of the University of King's College at York, they thought it their duty to examine the Charter granted to that College. Of the great advantages which the establishment of a College, for the purposes of general education in Upper Canada, is likely to confer upon the Province, the Committee entertain the strongest conviction; they cannot refrain from observing that no provision should be considered as sufficient to diminish the extent to which it might be useful.

"It cannot, they think, be doubted, as the guidance and government of the College is to be vested in the hands of the Members of the Church of England, that on the election of Professors a preference would inevitably be shown to persons of that persuasion; and in a country where only a small proportion of the Inhabitants believe in that Church's supremacy and guidance of religious interference would necessarily be created."

The Committee then go on to recommend the establishment of two Theological Chairs for the Students of the Church of England and Scotland respectively; but with respect to the President, Professors, and all others connected with the College its religious use whatever should be implied.

"That in the selection of Professors no rule should be observed, and no effect should result from the nomination of the most learned and fit person named, and that (with the exception of the Theological Professors) they should not be required to sign a declaration, that no fair or at all wise necessity for them to subvert or their hearers to relinquish religious subjects, they should distinctly recognise the truth of the Christian Revelation but would abstain altogether from inculcating particular doctrines."

It has often been urged by the High Church party that the people of Canada being unable to appreciate the advantages of the religious and intellectual discipline pursued at Oxford and Cambridge any attempt by them to interfere with the Constitution of King's College would be in the highest degree dangerous and unbecoming. Some guarantee for the safety and policy of the establishment demanded may however be found in the course of those individuals by whom the Report was framed, and in the foundation of much of their subsequent fame was learned of the revered Ecclesiastical Institutions of England, it is probable that

the statesmen on parts of their system were not overlooked. Among the Committee were Mr. Huskisson, Mr. Wynn, Sir James Mackintosh, Mr. Wilmot Horton, the Solicitor-General, Mr. Vesey Fitzgerald, Mr. (now Lord) Stanley, Mr. Manners Sutton, Lord Francis Leveson Gower (Mr. Bentinck), Lord Viscount Sandon, and Mr. Labouchere.

When the Report was laid before the House of Commons, Sir George Murray—a consistent Conservative and a prudent friend of the Church—had succeeded to the Colonial Department—and as he had personally visited Canada, and was therefore in a position to form a fair judgment of the character of the institutions which might be best adapted to the circumstances of the country, his opinion may be entitled to some weight.

"It appears," he said, "that the Committee object to the Constitution of the Colleges, and recommend that a statement of Professors' salaries shall be followed, and an other object sought than the transmission of the most learned and correct persons. In this view I concur. I think it would not be safe to interfere with the religious opinions of the Students this first years should be chosen without reference to the Christian denomination to which they belong."

The opinion of the Colonial Secretary thus frankly avowed was acted upon practically in his instructions to the Lieutenant-Governor, under whose nature he brought "all the points recommended by the Committee." In his despatch to Sir P. Maitland, dated 28th Sept. 1818 he observed:—"It would be desirable a subject of regret to his Majesty's Government, if the University recently established at York, should prove to have been founded upon principles which cannot be made to accord with the general feelings and opinions of those for whose advantage it was intended. At the same time he requested that any alterations in the Charter should be made through the representatives of the people, and in the mean time to decided that no operation should be suspended on most conditions." In pursuance of this order, the Charter of the University of Murray's views on the subject of this University is obtained from a speech which he subsequently and after his had quitted office delivered as the House of Commons, and a which the subject of King's College is then mentioned y consists of:—

"I have been desirous to remove as much as possible every grievance which pressed a part any portion of His Majesty's subjects, on account of the a differing upon points of religion and I think that I have not been by the Church of England. I wish at the I refer to not upon the principles opposed to those of exclusion on account of religious differences of opinion. I could quote an instance subject in which in my public capacity I have act on the principle into effect. A short time before I came into office, the Secretary for the Colonies at Charter has been granted to establish a University at York in Upper Canada, with the view to his would shut upon the exclusive principle of giving admission to a share in the government, or to by to members of the Established Church. I objected to the. They people of Canada on cross examination Counsel under a Charter of the Crown. I think the act should be amended in this new period the minds of those very people are changed upon this subject, and consequently and concurred in the amendment to this act. I therefore moved that instead of establishing the College at York in exclusive principles, a College should be founded at Hackstead,

in which no distinction should be made on account of religious differences of opinion. I was led in the room Montreal, partly on account of its central situation, and partly because it so happened that a sum of money had been left by a benevolent individual for the purpose of forming a Protestant Seminary for education of that place. This sum I wished to unite with the other for the purpose of establishing a College at Montreal, for all classes of Her Majesty's Canadian subjects, without any exclusion on account of religious opinions."

When Sir John Colborne assumed the administration, towards the close of the year 1828, the excitement on the subject of the University had gathered strength throughout the Province, and his Excellency soon perceived that it would be absolutely necessary for the peace of the country to effect some settlement of this irritating matter. The College Council had, at the same time, been formed under the Charter, and as the materials of which it was composed already reflected the character of those then in possession of the reins of power, the most determined resistance was made to the proposed modifications. In carrying out the instructions of the Colonial Secretary, to submit the Charter to his Legislature, it appeared to his Excellency desirable to do so previous to the first meeting to secure the co-operation of the College Council. The influence of that body in the Legislative and Executive Councils being paramount, it was easy to foresee that any measure of a liberal tendency which might be framed by the Assembly, would be defeated in the Legislative Council,—a majority of its members having seats at the Council Board of the University. Accordingly on the 13th Dec., 1828, a few days after he had entered upon the administration, his Excellency summoned the College Council, and strongly urged upon them the necessity of surrendering the Charter, which had been obtained upon misrepresentation and misconception of facts. He moreover stated, in support of the correct terms of the House of Commons, which characterized the Charter as a grant to—founded to the great exclusion of those who had received from his Majesty's Ministers to endow the Charter to the Legislature—the object of the Council, in effecting the amendments and he emphatically declared that on his event of the resistance he was thankful one more should not be put upon another and that he would concur in no measure to further the Institution which the conditions provisions of the Charter remained unaltered. In his speech on opening the Parliament 8th January 1829 Sir John Colborne in determined on the subject of the University he said "Measures will be adopted, I hope, to introduce a system of the Seminary the end open to the youth of the Province the means of receiving a liberal and extensive course of instruction."

In consequence however of the persevering resistance of the College Council, and their powerful influence in the whole country, no measure for the amendment of the Charter was submitted to the Legislature and his House of Assembly, this Session and on their expected rise, after some days addressed his Excellency on the subject, and with the view of possessing themselves of the necessary information requested to be furnished with a statement of the funds which had been obtained and still report for the erection of the University and of the appropriations made from and out of those funds. On 30th March 1828 a set of

resolutions, embodying the sentiments of the members, on the subject of the University, were severally put and unanimously carried.

The importance of these resolutions, as indicating the wishes of the country at that time, is increased in consequence of the petition subjoined to them having been, at a later period, adopted as the foundation of a legislative measure which passed through the Assembly, but was defeated in the Legislative Council.

"*Resolved*—That the thanks of this House are due to His Majesty for his gracious intention in erecting and endowing a University in this Province.

"*Resolved*—That such previous information has been communicated to His Majesty's Government upon that subject, under which misinformation, this House apprehends the Charter was granted: with provisions not suited to the circumstances and wishes of the people for whose benefit it was intended.

"Resolved—That the provisions requiring the President of the said University to be a Clergyman as Holy Orders of the United Church of England and Ireland, and to hold his office during pleasure, the professorships, lectureships in the only Seminary of general learning in the country all collegiate colleges and literary rewards should be exercised and awarded according to moral and intellectual merit, should be enjoyed under no dependent tenure, and should be held liable no more than to all candidates for academic honours, without making such honours conformity to doctrines.

"*Resolved*—That it is for the above reasons highly incompetent that the Archdeacon of York, for the time being, by virtue of his office, should be at all times President of the said University.

"*Resolved*—That the provisions requiring the President and the seven Professors constituting the College Council to be members of the said Established United Church, and to subscribe the Thirty-nine Articles, is highly incompetent.

"*Resolved*—That the Chancellor, President, and members of the Council of the Professors and the Teachers of the said University ought to be appointed by the Crown, to be elected by a Senate, composed of the members of the Council, and others who have taken a degree in the said University above Bachelor of Arts, having the same names as the Rector of the College, such election to be made from the graduates men the said University or from the graduates from the Universities of Eng and Ire and or Scotland, of sufficient standing in their respective Universities to be considered fit for such office or trust.

"*Resolved*—That the conferred to but the degree of Doctor of Divin y should be confined to those who subscribe to the Thirty-nine Articles of the said United Church and let Church but that all could be obtained by the graduates, who, professing the Christian faith shall take arts and imperial public examinations in the public School of the said University and pass a standard, honourable or other learning and qualifications proper to be required by candidates for such an honour.

"*Resolved*—That it would be expedient in the teaching of Div. real Divinity were confined to the exam nation of the Students, by questions set by the Professor of Divinity the Bible, in the same manner as the classics in the University of Cambridge are examined upon and taught any manner not at standard are fixed, leaving it open to any candidate to the Professors only in being up a Biblical criticism their own evidences of Christianity second theory and whatever collateral branches of learning may be required for candidates for Holy Orders by which means would be obviated the personal differences a particularly from the minor Professors being the instructors of Students grabbing the faith of different denominations of Christians.

"*Resolved*—That whatever in the said Charter in any degree gives a sectarian character to the said University, ought to be wholly done away.

"*Resolved*—That with the exception of the exclusive and sectarian principles and unequal distribution of wealth prevailing in the Universities of Oxford and Cambridge, it is highly expedient to follow their institutions as models of instruction, making from time to time such modifications as experience may point out.

"*Resolved*—That without the systematic, dishonourable, and impolitic conduct of those to whose wisdom and management the destiny of this Institution shall be confided, without a total disregard of all moving in the whole system, willing judging from a test of truth and honour, Protestants of acknowledged learning and worth, liberally paid, and not of that extraordinary which would make the rewards of honour in the capital or pension of pecuniary gain, and without making grantor of schemes and experiments yield to immediate practical and unanimous utility, the University cannot gain public confidence, or realize the gracious intentions of His Majesty."

These Resolutions were presented to the Executive with the following Address.

"We, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled humbly request your Excellency's favourable attention to the Resolutions accompanying this Address, and we further humbly thank your Excellency for the intimate your Excellency has manifested for the promotion of education in this Province in a way candid to the wishes, feelings, and genius of the people."

The Lieutenant-Governor thanked the Commons for this Address, and assured them that he would not fail to give immediate attention to the Resolutions which accompanied it. The Session having forthwith terminated, no further proceedings took place in reference to the University.

Before the end of the year [illegible] Council with respect to obedience to the instructions which he had now had from His Majesty's Ministers, to effect a modification of the Charter. Answers still that he should be done well the friendly co-operation of the College Council and assure that without the co-operation any attempt to [illegible] as the Institution would be defeated in the Legislative Council he entered his urgent intreaties to have the Charter so revised. He foresaw, however, that no present unavailing he was at length compelled to suspend the operations of the Charter, and to direct his energies to such amendments in the existing system of Education as which they prevailed in the Province as would best remedy the evils which the obstinate conduct of the College Council might affect on its country. In opening the Parliamentary Session on 5th January 1830 he thus correctly alluded to the opposition which he had now had from that body and to the defective state of Education throughout the Province.

"The delay that may take place in revising the Charter of the University or *in framing one suitable to the Province, and to the intention of the endowment, must, in fact,* render present improvements, and to the advancement of the Institution, as far as depends on the actual state of Education in the Province."

The Address of the House of Assembly in answer to his Excellency's Speech, turns out his allusions to Education :—

"We are glad to find that your Excellency still entertains a most solicitous for the Queen of King's College, which as at present constituted, is undeserving of public patronage, and likely to remain so, unless its principles are put more equally impartial to the parents of our children and to the liberties of our people.

"While we are willing to assist in a College for the education in the rudiments, and in the higher branches of science, we feel it to be a primary and most imperative duty to see to the proper application of the grants of Education among the people in every township. But we cannot with the opinions expressed by your Excellency, that a general rate for the promotion is ever an expedient measure; a general rate, we say, is not to be resorted to except in cases, particularly while the present system of the Madras, on the social amalgamation which that system, in the moral condition of the country has effected in ours, will not admit of more than a voluntary rate to their support calling.

"From those considerations we feel the increased necessity and duty of maintaining inviolate the sacred principle, that the land is a trust vested and just distribution of the proceeds arising from the lands reserved for education, from which manifold the people have hitherto derived no advantage."

The House of Assembly, at the same time passed the following Resolutions, declaratory of its determination to resist the exclusive policy which had created itself on the part of the High Church party composing the Administration

"*Resolved*.—That the Church and of vacant domain in this Province ... have been ... wrested ... their benefices by the ... and exhausting ... many years income made for the ... of such object, an ... and ... and ... by rendering ... and ... the increase of the Executive Government, and the unjust appropriation of the School Reserves, for the support of the University under the exclusive administration of which the House can in no manner ... confidence ... they already have done

"*Resolved*.—That these ... in the ... of the party ... of the Province, a strong and settled ... to the dominion ... Church connected with the ... and, and hold by that Government ... in claim to a ... of the Clergy Reserves, and to the enjoyment of power ... privileges to the exclusion and prejudice of various denominations in the Province."

Notwithstanding the symptoms of weakness and vacillancy which frequently ... his timid ... in Sir John Colborne's ... ... Government, it is ... to ... that his personal views and designs, when ... ... by the influences of the baneful oligarchy which at that time ... the Province ... a sincere desire for the prosperity of ... country. To the cause of education in particular he devoted much of his time and energy and it is probable that he might have succeeded in effecting a considerable amelioration of the defective system which then prevailed, had it ... place not been frustrated and overruled by the illiberal and ... opposition of Dr Strachan and his ... party. The ... ... which had been from time to time made by the Legislature for the ... of instruction among the people were rendered ... a ... by the ... of the ... which the Archdeacon of York ... a ... of ... ... divulged to the Society for the Propagation of

the Gospel. He had truly been the instrumental in establishing a scheme in Cowrdale by which the education of the whole population was virtually under the direction of the Church—and from which, he might have added, the people generally derived scarcely a larger amount of benefit than the pittance gratuitously of seeing the pecuniary necessities of the Honorable President of the Educational Board relieved by an annual stipend of £800 from the Parliamentary grant. It formed no part of the scheme of the Government in question, for example, to provide any of the classes who contributed to largely towards the maintenance of the Schools to participate in their superintendence. The scheme seemed was manipulated by the members of the Episcopal Church, and the appointment of Trustees from one community alone had occasioned so much jealousy and bitterness, that the Schools had sunk into a deplorable state of inefficiency which reflected deep disgrace upon the Province.

Sir John Colborne was fully alive to the defects and corruptions under which the system laboured and to the necessity of establishing a University for the higher branches of learning, while the children of the people were compelled to the evils and dangers of almost unmitigated ignorance. It was indeed absolutely apparent that the country as it then existed would derive a greater amount of benefit from the general diffusion of the means of instruction, and that the object of the Royal Grant would be more effectually promoted if a liberal education could be placed within the reach of the people, than if the endowment were applied to the establishment of a great metropolitan seat of learning, for which the youth of the Prov ace were not fitted by a proper preparatory course. The first efforts of the Lieutenant-Governor were therefore directed to an extension of the Common and District Schools, and to a more liberal system of management and inspection. But these benevolent designs did not meet the approval of his Executive and his party, and his Excellency was compelled to succumb to the superior influence. Governing however, is supposed to be plain sledge-to look to universal interest and subsidiary to the Church and the Crown; a proposal for the establishment of an Academy of a superior class at York, which might at least prepare the children of the higher ranks for the advantages of the University. This proposal having met with no opposition, his Excellency by message, submitted his plan to the House of Assembly.

"The Lieutenant-Governor has no doubt that it would be deservedly a subject of regret in his Majesty's Government if the principles on which the University is founded, could be made to operate unfairly with the general feeling and opinion of those for whose advantages it was intended; and he has no less fed the first charge in the Charter with which it is recommended and which would confine more than any other to its becoming eminently useful—the functions of determining the Royal Grammar School with King's College, in such a manner that its Professors, Scholarsh ps, and chief support may depend on the Fields of that endowment.

"The advantages that will result from an Institution constituted by nine or ten able masters, under whose tuition the youth of the Province could be prepared for any profession on undergraduate and if such a School were permanently established, and the Charter so modified that any Professor shall be eligible for

the Universities and that the Students in the College shall have liberty and facility of taking degrees in the manner that shall hereafter be directed by the statutes and ordinances framed by his Majesty's Governors, the University must flourish, and prove highly beneficial to the Colony."

This proposal having been assented to, the Royal Grammar School was superseded, and Upper Canada College was opened on the January, 1830, for the purposes of tuition. An endowment of 63,000 acres was afterwards procured for its support from the residue of the general School Lands, together with the site of the College, and some valuable town lots, and by means of the aggregate funds that were expected to accrue from these sources, and from the fees payable by the Students, it was fully expected that under a proper system of management, a sufficient income would be derived for the proper maintenance of the Establishment. How far those expectations have been realized will form a matter for future inquiry.

CHAPTER IV

THE AMENDED CHARTER.

The reform of the University now became intimately connected with another question which had already created much excitement and inviting discussion; and which was destined to have a material influence on the future peace and welfare of the Province. By the Imperial Act 31, Geo. III., ch. 31, one-seventh of the granted lands in Upper Canada had been set apart for the support of a Protestant Clergy. This ecclesiastical provision had, under the phrase of "a Protestant Clergy" been construed or limited by the Government to the United Church of England and Ireland. A claim was at length put in by certain members of the Church of Scotland in virtue of the provisions and this claim was afterwards supported and assisted on by the other Protestant denominations in the Province. The appropriation by the Government exclusively to the Church, or the extension of it to others, then became a question of almost absorbing public interest. The House of Assembly repeatedly offered strong remonstrances against any bestowal or sanction on the part of the Government to one or more religious denominations more than and equally favoured with all — pointing out of religious supremacy and exclusion in favour of the Church of England, contained in the Charter of the University appeared to the members of that body as a part of a system conducive to the existence and perpetuation of an injurious policy inconsistent with that perfect equality of rights and privileges to which it was thought Christians of all creeds indeed in the Province were entitled. In conformity with these views the Assembly on 12th March 1831 caused the following address to be prepared and transmitted

"TO THE KING'S MOST EXCELLENT MAJESTY

"Most Gracious Sovereign,—

"We your Majesty's dutiful and loyal subjects, the Commons of Upper

Canada in Provincial Parliament assembled, beg leave most humbly to submit to your Majesty, that by an Act of the Parliament of Great Britain, passed in the last session of the Imperial Parliament, the said Province was separated from the Province of Canada, and

That under that act appropriations have from time to time been made, and which appropriations are, in this Province, known by the name of the Clergy Reserves;—that those appropriations having been generally made in lots of two hundred acres throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country, and principally from the improvement of the lands on the neighbourhood of such appropriations, by the labour of which lands the proprietors of various denominations of Christians;—that these Reserves having no distinguished mark on the lands of natural wealth, have materially retarded the improvement of the country;—that by an act passed in the reign of his late most gracious Majesty provision was made for the sale of a portion of these Reserves;—that it appears as well as reasonable, to appropriate the said lands to the support of any one Church establishment, if it can be shewn that it was altogether impracticable to appoint or divide the same among the Clergy of all denominations of Protestants;—that a large majority of the inhabitants of this Province are especially attached to your Majesty's person and government, and are averse to the establishment of any exclusive or dominant Church;—that this House feels confident, that to promote the prosperity of this portion of your Majesty's dominions, and to satisfy the earnest desire of the people of this Province, your Majesty will be graciously pleased to direct the most favourable consideration to the wishes of your faithful subjects;—that to terminate the pecuniary and sometimes acrimonious discussions connected with the subject of the said Reserves,—to remove a barrier to the settlement of the country,—and to shield your Majesty's sacred name from the censure of the people, it is considered by this House the most desirable course that the said lands, so reserved, be sold, and the proceeds arising from the sale of the same placed at the disposal of the Provincial Legislature, to be applied as shall be by it, for that purpose. We therefore humbly pray that your Majesty will be graciously pleased to recommend to your Majesty's Parliament, or Great Britain and Ireland to pass an act to authorize a sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of Education.

"We do not think it necessary to refer to others to your Majesty that while we fully appreciate the generous motives of the late pious Founder in the grant on education, by granting a Royal Charter for the establishment of an University in this Province, we feel ourselves called to represent, that as the most majority of your Majesty's subjects in this Province are not members of the Church of England, it is matter of regret that the Charter confers no provisions which are calculated to extend those its great and effects are limited to the fruit belong to that Church.

"The consequences of these provisions, the benefits of the Institution will be confined to a few individuals of one religious denomination, while others of your Majesty's subjects, equally good and loyal, may not be entitled from participating advantages which it could be open to all. No influence, no a Seminary of learning of this moment, must be, if not, and will be looked upon with jealousy by a large majority of the whole body of this Province. We therefore humbly pray that you Majesty will be graciously pleased to cause the Charter of King's College to be amended and to grant such relief as from the objections to which our duty the people of this Province has induced us to address."

This address was immediately to the King by Sir John Colborne, who

reserving it, the amendment to the House has no intention on the subject of the University.

"Gentlemen,—Until Several the Address to the King unconditionally. It may, however, be unfortunate, if not to procure the information, that I have reason to believe that either the exclusive pretensions considered objectionable to the Charter of King's College have been cancelled, or that such arrangements have been decided on by his Majesty's Government, as will render further opposition on this subject unnecessary.

"A Charter, solemnly given, cannot be revoked without much delay and misrepresentation; but his Majesty's Ministers have been induced under circumstances to the great disadvantage which the Province will derive from an University being established on principles that may be approved of by every good and enlightened person."

Meanwhile the excitement on the subject of the University continued undiminished throughout the country. At a public meeting held at York on 10th December, 1830, a Petition to the British House of Commons was adopted, and before long numerous other meetings of upwards of 3,000 signatures. The Petition embraced the subject of the Clergy Reserves, and prayed a modification of "the Charter of King's College, established at York in Upper Canada, so as to exclude all exclusive privileges and preferences, and to appropriate the proceeds of the sale of lands heretofore set apart for the support of a Protestant Clergy, to the purposes of general education and various internal improvements."

An Address was supported to every the Petition to London, and on the occasion of its being presented to the House of Commons, Sir George Murray observed—

"I first call the attentionto which I have always entertained upon the subjects to which this Petition relates are undoubtedly well known to the House. I can assure that nothing can be more unfortunate for any State than that political that subjects should be furnished as difference on matters of religion. I believe that those distinctions can never arise, except when religious has been made subservient to the political distinctions and for the only purpose of such. I again entirely in the objection which has been taken to that part of the Charter of King's College, which excludes as a distinction on the score of religion. While I remain in office I suspend of the operations of the Charter. Assuring it as considerations to establish entirely that distinction and that I persistent in office, I should certainly have done so."

Copies of the Canadian petitions to the House of Commons, and of the proceedings and resolutions of the House of Assembly were at the same time laid before the Colonial Secretary

These proceedings had the effect of turning the immediate attention of the British Government to the danger of the exclusive policy which had been practised under the erroneous statements and evil counsel of the Archdeacon of York. His Majesty's Ministers at once saw the necessity of concession, and endeavoured to retrace the false step that had been made by giving their formal sanction to the modification which had been proposed by the Assembly. With this view his Excellency Sir John Colborne was instructed to bring the matter before the College Council and to avail upon a surrender of the Charter in order that it

might be modified by the Provincial Parliament, in such a manner as would adapt it to the situation of the country and the wants of the people.

Acting upon these instructions, the Lieutenant-Governor summoned the College Council on 2nd November, 1831, and had before them a Despatch from Lord Goderich, then Colonial Secretary—in which that Lord had declared at considerable length his the original purposes of the grant, and the design of the British Government in establishing a University. He observed that it was greatly to be regretted *that any thing in the constitution of the establishment should have tended to counteract, if not defeat the laudable design, and gradually deprive the Province of the advantage anticipated.*" "*It cannot be denied*," he continued, "*that the confusion and distraction observable given to King's College University has had the effect*" . . . His Lordship then alluded to the suggestions of the Committee of the British House of Commons in 1828, which had been intended by his predecessor in the Colonial Office, with the view of their forming the basis on which the constitution of the University should be established and he earnestly recommended that the course then adopted by his predecessor should now be pursued. He also signified his approval of *the Resolutions adopted by the House of Assembly* in 1829, quoted in the preceding chapter, and stated that the College Council should immediately surrender the Charter that it might undergo such modifications as the Parliament of Upper Canada should determine, but in requiring such surrender he pledged himself to the Council that the endowment should be applied to no other purpose than that of education.

The advice thus frankly offered, and the support contained in the despatch of the Colonial Secretary, were cautiously declined by the College Council, who, in a lengthy report, framed in answer to the despatch, maintained their position with a certain tone of dignity, which, at the present day, appears surprising, when the facts are sufficiently explained, by the overwhelming majority which in number possessed in the Executive and Legislative Councils of Upper Canada. Hitherto the obstacles interposed by the College Council—who had been long the prominent leaders of the High Church party—to the diffusion of general instruction and general moral sentiment in the country. It was quite obvious to every one, that the enormous sum of means accruing from a productive endowment on exclusive Seminary principles could only have flow so long as the a monitory Schools owing to the unpopularity some of these endowment from causes having existed were as a state of comparative dest, whose was proceeding not only among the order of the native inhabitants but an nearly calculated to create a dissatisfied and revulsion feeling on the part of a large portion of the community. So long indeed as means were wanting a noble elementary instructors commensurate with the increasing demands of the country the poor formation of a new republican and of learning, irrespective of its exclusive character had established was viewed with jealousy and disfavour even by those who, under more propitious circumstances would have hailed its establishment and would have been well satisfied to see it in active operation. The functions of the General Board of Education—which for nearly eight years had been a fact in the name that it here—ceased in 1852, and

with its double the salary of the Vetusian President, which during the same period had yielded him no less a sum than £9,258 also ceased to be payable. The Archdeacon of York, however, whose genius was ever fertile in expedients, and whose zeal in the cause of education has always been an affectionate appreciation to the pecuniary advantages which he has derived as a "Patron of Learning," naturally turned his restless energies to the University in question, originating scheme of enrichment. Making the office of President, with the emoluments honour of being the only salaried member of the Council, he regarded with decisive every modification of the Charter which could have the most remote tendency to endanger his security, no effort he has omitted necessary to have followed from the admission of the Dissenters to a share in the government, and a consequent subjugation of the aims of the Institution.

So long as this persons absolutely resisted, all conciliatory attempts to obtain the consent of the College Council to the modifications required by the powers of Canada signally failed, and the Colonial Secretary at length became convinced that no concession would be made to which the Council were not driven by the last necessity. The Archdeacon of York had yet nearly distinguished himself as an energetic and powerful opponent to the admission of the Romish Company, and though his political interference to suggestions had been materially retarded it was at length, however against, on the understanding that his personal opposition to the Company should cease, that an annuity of £1,000 for six years should be given from the funds of the Company to aid of the University buildings. This grant had been paid for four and a half years, but was suspended by Lord Goderich—who penetrated the design of the College Council to maintain their position as long as they were provided with available funds—until the Legislature should pass a Bill amending the Charter. In the despatch of 16th July, 1831, by which he suspended the grant from the Romish Company, to assist the consolidation of the University mainly in the hands of the Protestant Parliament, whose claims he formally recognised in the extent to the management of the territorial grants assigned for the purposes of education, it being assumed, from that time in questions of the manner he deepest share of interest, the they not therefore the most competent to judge of what is best adapted to the progressive wants and to about of the community which they represent." Mr. Lordship further clear out, that "when a change of it is matter desired by the inhabitants themselves, and is called for by an address from their representatives I am of opinion that if there were nothing else to be considered than the accomplishment of the immediate object it would be desirable to comply with unless which have been so expressed." Beyond expressed that the trade of the endowment from a part of the control of the Provincial Legislature should not be diverted from the governing object—the promotion of sound in—Lord Goderich if it not think it expedient to prescribe any set regulations for the practical application of these funds his Lordship observing "that it would be worse than useless to destroy the grace of the concession which had been made, by attempting to clog it with objectionable conditions."

The Despatch from which the above quotations have been made, was marked "Confidential," but if any doubts remained as to the intention of the British Government on the subject of the University, they were satisfactorily removed by Lord Goderich's enclosed Despatch to Sir John Colborne, of 8th November, 1827, which was laid before the Provincial Parliament. In reference to a proposal which had been made to place King's College on the list of constituent bodies enjoying the elective franchise, his Lordship thus expressed himself:—"You will observe that I do not here refer to an University constituted in the manner proposed in the original Charter of Incorporation. Every man in Canada, however, knows, *that in fact from any country having been left by the Kings Government to conclude that Charter rejected* the wishes of the great majority *of the people*, every possible measure has been taken to refer to them Representatives the decision of the question, on what form and upon what principles the *College should be founded*." And in the same Despatch, after repudiating a policy which would exempt the children of the pecuniary independent, but knowledge should render them unprepared in action and in thought, his Lordship presents "On the contrary, there is no one object connected with every part of his Majesty's dominions, which has filled a larger space in the attention of sound knowledge in the legislature and most unfrequent sense of that term. This is not merely the best and highest, interest of society, but is essential to the right and reasonable enjoyment of every other civil and social privilege," and he thus points to the constitutional remedy for the abuses of King's College, which his Majesty's Ministers were now most anxious to see relieved of every sectarian restriction:—

"*The Legislature of Upper Canada have already been invited to consider in what manner the Crown may can be best constituted for the general administration of* charity, and His Majesty has constantly abstained from the exercise of the undoubted prerogative of founding and endowing Literary and Religious Corporations, until he should obtain the advice of his Representatives of the people in his settlements in that respect." "All such measures should be adopted in a gradual manner for the attainment and the diffusion of Education only, and at the head of that union the local Government should be limited encouraging and guiding and to be utmost of its power securing all the efforts which may be made to create or to foster a taste for [illegible] and experiments" "Confident you own experience and that of the members of the Legislature in those views, I therefore [illegible] to you and to them the office of originating the necessary plans for obtaining the greatest possible use of public [illegible] of yourself in the first instance only that you should awaken the views of the Legislative Council and Assembly to this subject, should you have reason to suppose and that it is in danger of being overlooked or neglected.

In opening the Parliament on the 15th November 1831 His Excellency Sir John Colborne thus communicated his instructions to the Legislature:—

"The important subject of public Education, which has at several Sessions occupied much of your attention, demands your early and an anxious consideration, particularly by the questions which relate to the revision of the system of Normal Schools—the application of the proceeds of sales of School Lands for the support of superior District Schools, and the unjustly extension of the Royal Charter

under which the University is at present established. With respect to these points, and the immediate means which may most suggest to ensure the opening of the University, mentioned by a Charter framed on more comprehensive principles than that which has been granted, there can be no doubt, that as the Province is finally prepared to reap the benefits which were intended to be conferred on it by the establishment of King's College,—*Her Majesty* and *humbly can effect by* many measures proposed to your consulting as future government and the appropriation of School Lands that may tend to promote the purposes of the Institution, or add to the advantages which the College under the blessing of Providence, may have, by facilitating the difference of Education among all classes.

To this address, the House of Assembly answered that they would use due diligence in considering and maturing the requisite measures of the Royal Charter under which the University is at present established and His Excellency's assurance, that Her Majesty will readily give effect to any measures proposed by us regarding its future government, and the appropriation of the School Lands to assist the purposes of Education, as additional proof of His Majesty's paternal care for the advancement of the most important interests of her subjects."

No Legislative measure affecting the constitution of the University was introduced into the Assembly during the Session, but at length in the Session of 1836-37, a Bill to amend the original Charter was framed upon the principles contained in the Resolutions of the House in 1829, which had received the approval of the Colonial Secretary.

This Bill proceeded on the preamble that, — Whereas his present Majesty has been graciously pleased to satisfy through His Majesty's principal Secretary of State for the Colonies, Earl Aspen, by his despatch of the 8th November 1836, communicated to the Legislature by His Excellency, by message, that no fit from ... the house have been let by His Majesty's Government to maintain the said Charter against one or more of the people may possibly ... summons has been taken in order to draw Representatives the decision of the question in what form and upon what principles the said College should be founded." The Bill then declared its from thenceforth would not be necessary for the President and Professors to be members of the United Church of England and Ireland, or that they should subscribe the Thirty nine Articles — That the Council should consist of two or persons one half of whom should be nominated by the Legislative Council, and other half by the Legislative Assembly — and that they should hold those office for five years — That the College Council should elect the Professors, Tutors, and Lecturers — That the College Council should make rules and ordinances for the government of the University subject to the approbation of the Chancellor — That no rules or ordinances should be passed by the Council unanimous on the Professors, Tutors Lecturers, Scholars, Students, under Academies, Students, Servants or others, any ruling may have, or mode of worship, or in any way whatever restraining them from attend ng on the Sabbath whatever place of religious worship they choose — That no religious test or qualification whatever should be required of the Chancellor President Professors, Tutors Lecturers, Scholars, or other persons being candidates for any admission or honors in the College — That those should not at any time be allowed

to be within the College any public Professor, Lecturer, or Teacher of Historical Morality, according to the Articles of Faith professed by the United Church of England and Ireland, or according to the Creed or Faith of any other Christian or Religious Church whatever.—And that the College Council should not apply any of the funds belonging to the University to the support of any public Professor, Lecturer, or Teacher of such Divinity.

The Bill was carried through the House of Assembly by a majority of 33 to 1. Among the majority were men ignorant whose views on other subjects were directly opposed to those of the liberal party but on strong was the feeling during that session in favour of the measure, and so convinced were the moderate themselves of the impolicy of the plan of planting exclusive educational institutions among so varied a population as Canada contained that the various resolutions introduced in the House, in successive Sessions and Parliaments, had been adopted with all but perfect unanimity. The delay that took place in affording their object was occasioned solely by the obstinate persistence made by the College Council and total indifference of the local Government to popular opinion. The influence of the Executive in the Legislative Council was such, that the persons composing the former could, at any time, either put a stop to the most wholesome measures, or forward to the utmost extent the sinister interests of any party whom they wished to favour. The Executive and Legislative Councils were indeed little better in name than one in fact—the persons composing the one being the majority in the other—and such being alike irresponsible to the country. Under such an administration and with a man of prejudices and interests, as the different branches of the Legislature, it was utterly impossible that the system of Civil Government could effectually promote the prosperity of the Province, or that wholesome measures could be passed suitable to the wants and happiness of the people. The Society of the University of King's College knows that the Rt Hon G. Vernon had no wish to govern Canada, but on accumulative with the wishes of the great majority of the people whose best wishes were perfectly known and makes and but he proper influence of the Rt Hon Governor-General was at that time comparatively established by successive Governors after a brief share of resistance Lord Sydenham to his short long influence of the local oligarchy to this manner he did to open up the University to all classes and denominations, although unjustly and in most unmanly demanded by the people was designed to share the fate of almost every popular measure of a page or character. It was thrown under the table of the Legislative Council and the ardent expectations of the country were disregarded with the coolness indifference of a party by which had tested to trample upon popular rights.

The arrival of Sir Francis Bond Head in 1836 and his general tenor of his instructions, again gave all the hopes of the friends of peace an improvement. The distinct recognition which those instructions contained of the right of the Provincial Parliament to legislate on the subject of the University act his future avowed by the British Government to leave the Educational Institutions adapted to the circumstances of the country afforded the highest gratification to the friends of

Education. Respecting the Collegiate Institutions of the Province—a complaint having been made by the Assembly that Upper Canada College was subject to great public expense, with high salaries to the principal Masters—Lord Glenelg observed in his Despatch of 5th December, 1835 :—

"His Majesty's Government can have no wish to retain any charge for this Establishment, which may be more than adequate to provide for the effective performance of the duties of the Institute. Any wise retrenchment of that nature may subject to the proposition to be considered and determined by the Provincial Parliament. That this Province derives little benefit from this College, as a fact of which the explanation is to be found, not in the principles of the Institution itself, but in some cause of management, especially, as it should seem, of any system of education."

"On the subject of King's College,—an unfortunate difference of opinion exists between the Governor and the Assembly, which each of them bodies concurs in pronouncing unreasonable.

"His Majesty commands me to tender, through you, his confidence on this subject. With the previous assent of both Houses, the King will cheerfully resume the consideration of the question, in what manner a Charter could be most conveniently prepared, so as to promote the interests of Science and Literature, and the cause of Theology and Moral Philosophy, with a due regard to the opinions which seem to prevail at this Province, respecting the proper constitution, and objects of an University. But after having already received, to the Local Legislature the duty of settling effects to their own wishes on the subject, as the form of an Act of General Assembly, his Majesty cannot at the instance of one only of the two Houses, withdraw it from their cognizance."

Lord Glenelg's instructions to the Lieutenant-Governor were but before the Assembly but reveals of a more pressing nature soon absorbed the attention of the Province and the subject of University Reform was for a time laid aside. The contest between Sir Francis Head and the House of Assembly respecting the responsible duty of the Executive Council, created a serious crisis, which is mainly led to be refusal of the supplies, and terminated in the dissolution of Parliament. Whatever the real merits of that contest may have been, it is certain that in consequence of the extreme party course then pursued by the Lieutenant Governor the tone and character of the new House of Assembly did not reflect the true state of popular feeling on many of the important questions which had previously agitated the country. No change had exhibited itself in the sentiments of the people on the subject of the University but the elections had been decided on a question of a more exciting character—a measure indeed, of itself sufficiently plausible to afford available cap ital for Government agitation. The question of "British Connexion" was represented as depending on the votes of the electors at the Hustings—and so successful was the country excited by a mere electioneering trick of the Government that many individuals whom loyalty would otherwise have kept fee above suspicion were deprived of their seats on account of their strenuous maintenance of popular rights. Notwithstanding the personal question however entertained by the majority of the new Parliament to interfere with the Charter of the University the necessity of some alteration in its constitution was forced upon them by the prevailing sentiments of the country and the multifarious difficulties, however ignominiously admitted and injudiciously

under, at least settled the great principle for which the people had so long and incessantly struggled—the right of all classes and denominations to a full and free participation in the benefits of the Institution.

In November, 1836, a Committee consisting of Messrs. Bagot, Burwell, Malhiens, Sherwood and Cameron, were appointed to frame a Bill which would meet the demands of the country without being obnoxious to the Episcopal principles of the Legislative Council. This Committee accordingly reported a Bill to amend the Charter of King's College, and as the principle upon which this measure was framed will claim some consideration in the argument which I am pursuing, in a subsequent chapter, to defend from the historical sketch which has been given, it is proper to quote the principal resolutions.

After reciting the original Charter, the Bill enacted that the Judges of his Majesty's Court of King's Bench should, for and on behalf of the King, be Visitors of the College, in the place and stead of the Lord Bishop of the Diocese of Quebec, for the time being, and that the President of the said University, on any future vacancy shall be appointed by his Majesty, his Heirs and Successors, *without requiring that he should be the Incumbent of any Ecclesiastical office*; and that the members of the College Council, including the Chancellor and President, shall be twelve in number, of whom the Speakers of the two Houses of the Legislature of the Province, and his Majesty's Attorney and Solicitor General for the time being, shall be four, and the remainder shall consist of the five Senior Professors of Arts and Sciences of the said College, and of the Principal of the Upper Canada College; and in case there shall not at any time be five Professors as aforesaid in the said College, and such Professors shall be appointed therein, the Council shall be filled with members to be appointed as in the said Charter is provided, *except that it shall not be necessary that any member of the College Council is to be so appointed, or that any member of* [illegible] *Professor to be a* [illegible] *member of the Church of England or subscribe to any Articles of Religion, other than a declaration that they believe in the authenticity and divine inspiration of the Old and New Testaments, and on the doctrines of the Trinity*; and further that no religious tests of qual fication be required or appointed for any person admitted or matriculated as Scholars within the said College or of persons admitted to any degree or facu ty there in."

The Bill passed both Houses of the Legislature without opposition, and received the Royal Assent on 4th March, 1837

The principle of perfect religious equality among Christians professing the doctrine of the Trinity thus recognised by the Legislature in the establishment of the Episcopal test in the Provincial University was supposed to have been rated the struggle for religious freedom in this great colonial possession. The University was substantially divested of the Episcopal character imposed upon it by the original Charter and the special clause of any religious denomination to exclusive privileges and pretensions was intentionally barred. Unfortunately for the

Institution the lofty aim of, whose name cherished by popular fondness and the pride of commerce, will exist to form one of the most remarkable monuments in the civil and religious annals of this country—was felt by the Anglican Church, at the head of the management; and it is unfortunately which the people fondly believed to have been terminated by the Legislature of Parliament, was received and manifested with hostility as determined, and with real energy as perverse as to overturn the part of those whose duty it was to carry it into effect on which the University was finally established into existence. The supposed termination of the public contest for principle which appeared to involve the recognition of the rights of all denominations of Christians; but since was a mere sham: that the battle might be fought on different ground. Therefore of opposition was merely changed from the Parliament of the Province to the Council Board of the University but before we transfer the contestants to this new arena, in which some remarkable manifestations of character have been made, it is befitting that we briefly review the ground over which we have passed.

In a mere document history of the University of King's College, the intimate connection of that institution with the religious questions so interesting and religious which have for so many years disturbed this Colony, should have been withheld more than by the permanence of the present agents have prevailed. And this might easily have been done, by setting forth on the one hand the conscientiousness of the people to obtain for themselves complete freedom of thought and action in matters of faith and government on the equal advantages to the exercise of all denominations, so far as patronage and privileges were involved: and on the other, the struggles made by a clerical pretension to a dominant conquest, to introduce and perpetuate in the Province a form and Church and a negative proscription of what that Church chose to denominate an heterodoxy

When the Clergy Reserves were set apart, it passed, that the formation of a dominant Church established on the model of the Church of England may have been intended—and had such an intention existed it could appear to us only as the natural offspring of the state of religious affairs at that period—but it must assume of Europe where the sects in past religious strifes were not less equally a fact for dominant as and where each sect, without even professing toleration, compelled either to mainta n itself in by or out the Church a to reform that Church a its own model. The Presbyterian form of worship and discipline no other a fact to attempt to have itself upon England restored into the Church of Scotland, as both Protestant Episcopacy the national English ing. The same Sovereign into the necessity of the state become his earth head of two antagonist Church as serious to preserve and maintain them both and when the question arose as to what should stand in the place of a national Church in this Province, the Church of England, as by law established might have been solely intended, or the national Church of England as equally by law established might have been equally placed as co-existent or the Church of England. At all events the law as settling apart the Clergy Reserves for a "Protestant Clergy"

bill the matter entirely open. But the Church of England decided the question for herself, that she had exclusive claim to a true Protestant Clergy and thus got possession of the appropriation.

The original claim of the Church of England to the School Lands did not extend much upon the present false title by which she maintained her right to the Clergy Reserves. For in that case the endowment was placed in the hands of the Legislature for the purposes of general education—while in the former it was granted with a restriction which seemed to betray her perfidious. Her claim to the School Lands therefore could only be maintained on her original right as an Established Church to have the exclusive direction of popular education.

The first attempt at resistance to her monopoly of the Clergy Reserves arose on the part of the members of the Church of Scotland in Canada, who claimed that their Clergy were Protestant—and that they were Presbyterian, but not exactly the same as Scotland. Both the contending parties fought that of the true people of England, and the people of Scotland, respectively, who, after many years of bloody contention, established their Churches on their respective foundations—and that what should constitute for the national Church of the American Colony, if it should ever have one, depended not upon the will of the British Parliament, but upon the faith and doctrine which should be adopted by the future Colonists on their own behalf. Happily, very happily for Canada, the claims of the Scottish Church. Enough strongly advocated in England were too weak to prevail against the influence of the Archbishop of York. The conflict between the rival Churches created militant ranks to muster at length those who belonged to neither; and these latter, intensely enough, asked themselves, whether they wanted a national Church at all. The Scottish Church being considerably the weaker, was baffled in the fight, and gained the unexpected ease in a combined attack upon the supremacy of Episcopacy, not especially a spiritual power, nor other wise than a form of religion conferring exclusive rights as advantages upon its adherents, because in most nations and purposes a shadow or an empty name.

The High Church party among the Episcopalians, because of maintaining that the Church of England existed here as a national Church and that therefore the support granted by Parliament for a Protestant Clergy belonged to the Establishment on account that the Clergy Reserves were granted and consecrated nationally to the Church of England as such in the Canada—and for the Clergy they claimed an exclusive right to the whole benefit of the Reserves. The question was mainly debated in this form—but on this shape the real point was avoided. And as the question has an intimate bear ng on the right, which the Episcopal Church has set up to the exclusive control of the lit rature we shall endeavour to place it in a true shape, with such illustration as may be necessary to show our meaning.

We hold that any people may by means adopted to their form of government, erect and endow a national Church. This national Church may be Roman Catholic or and may become Protestant Episcopalian, or Presbyterian or Methodist, according to the will of the nation constitutionally expressed. And, by a parity

of parsonage, as the Church may. In a legal point of view, change in doctrine and still remain a national Church, as the same person whose consent is, may create many co-existent national Churches, or it may do without any national Church whatever.

At the Reformation in England, besides the confiscations of property appropriated to the Church and taken for state purposes—which confiscations we are not obliged here to defend or condemn—the ecclesiastical benefices throughout the nation were filled with Protestants in the room of Roman Catholics. The appropriations were originally made for the national Church,—not for the Roman Catholic Church;—and the property being national and not Roman Catholic, it continued without wrong in the national Church when it became reformed, and with that reformation forsook the Church of Rome. This could not have been the case had the property attached to the doctrine: as had it been considered in the light of an estate vested in the Roman Church at once established in England.

In the same manner in Scotland Episcopacy and Presbyterianism held Church benefices alternately, as either prevailed; but the benefices have continued national, and have followed the Church in this day.

Now it is very plain that had England and Scotland continued as many religious persuasions, upon terms of equality as they now do, no national endowment would in no wise if impossible for any one to establish a supremacy; the national Church property could not have continued, with any one sect. There must in fact have been many national Churches, or no national Church at all.

As regards this Province, it may be to have the intention of King George III. or of his Majesty's Parliament, or of his Ministers, that the people of Canada should be led on the basis of the Church of England: or that some particular should profess the doctrines of the Church of Scotland: and that the Canadian Protestant Church should consist of one or both as a National Church but it is clear that regards did not fulfil the intention. The people of the country through a diversity of causes, became divided into many religious communities, no one of them having sufficient preponderance in numbers or influence to be the Church. The Upper Canada Legislature repeatedly desired to have no such Church and they granted—so they had a right to do—that the Clergy Reserves should be appropriated to secular education.

By the late division of the proceeds of Clergy Reserves among different religious denominations, the grant pie has been established in Canada as regards state support—not but there should be no Church but that there should be many Churches: and as regards any exclusive right or advantage of a ritual, religious, we have not. Church Establishment in Canada, a vestige of a dominant Church except in the Ua Faculty of King's College.

As all Church endowment from national funds as for the in spoon instruction of the community—however their faith or doctrine may change or vary—as in all public endowment for educational purposes liable to be used for the benefit

of the people to be instructed. And as an endowment made by Romish hands was not one necessarily attached to the Roman Catholic faith, neither is a public endowment for educational purposes—supposing even that it had originally been tied for religious instruction of a particular faith—a grant to the professors of that faith, for a grant for a public purpose which must be liable to modification or no as to serve the end for which it was originally appropriated.

The University of Oxford once taught the Roman Catholic faith: it is now the chief support of religious education for a Protestant Church. Could this have been as well any ground in justice but the endowment here had to be Roman Catholic, and not national?

The late Clergy Reserves Act is based upon the principle not merely of religious toleration—but of perfect religious equality. Whatever nationality may exist in the distribution of the Funds, the principle is preserved in all its integrity. We look upon the passing of that Act as a great event in the establishment of religious freedom, not the less valuable because it was not accomplished through blood and violence—but where the influence of the sword of Church predominancy—the wretched attempt of the Council of King's College to invest the Episcopal Church with the attributes of an exclusive education at the public expense—and when that has been in some public and natural for public purposes, and not as now in which a Clergy can hardly draw salaries of Church predominancy—Canada has, and not till then will have religious freedom with absolute religious equality.

But in the settlement of what the character of King's College should finally be, three things anomaly exists. King's College *de jure* is unconditionally an establishment for the education of the Canadian people. *De facto* it is an exclusive institution for the education of a state necessary professing the doctrines of the Church of England. Associated with the principle of which by the Act has been determined by the law—that the majority in all cases predominancy has been imposed by the Council. The obvious remedies are—not that the principle shall adopted by the Legislature should be changed—so that the principle would have inverted the law and now laid so that any should be superseded. The remedy is one which we have every to that legislature and, as it applies towards those who have betrayed their trust and fraternized to go power to the most the great and object of Parliamentary interference will be a matter public confidence in an institution whose purposes have been scandalously perverted by its Trustees.

CHAPTER V

THE ORIGINAL COUNCIL

The original Charter endowed that the Corporation called or known by the name of "the College Council" should consist of "the Chancellor and President of the College for the time being," and of "seven of the Professors or Arts and

Faculties," and in order to provide for the management of the University by the formation of a Council pursuant to the appointment of Professors, power was given to the Chancellor "to appoint seven discreet and proper persons members without and Professors of Upper Canada, to constitute jointly with him the said Chancellor and President of said said College, for the time being the first or original Council." It was also declared that such persons should vacate their seats at the Council board immediately on the Professors being appointed.

The proceedings of the Council under the original Charter, so far as connected with the public history of the University, have been incidentally related in the preceding chapters. In the members of that body are to be found all the obstacles which were thrown in the way of the Province and the people in their long and arduous struggle for equality of rights in the University as a national School of learning and science. Compelled at length to submit to a partial modification of their exclusive system, the Council directed all the energy and influence of which they were possessed to defeat the intentions of the legislature in opening the institution to the various denominations in the Province, and in place it permanently under an exclusively Episcopal management. The Amended Charter did not in any respect alter the mode in which the Council was to be constituted, but it enlarged the number of Governors who were to have a seat on the Board to nine five senior Professors of Arts and Faculties," and extended the number of the whole Council to twelve—the Speakers of the Houses of Parliament, the Attorney and Solicitor General, and the Principal of Upper Canada College had previously been added.

The design of the High Church party to defeat the principle of the Amended Charter was not long suffered to lie dormant. With a few weeks after the Royal Assent to the said decision of the Charter had been obtained, Dr Strachan summoned to the Council was but of hers was called "sufficient" for making the University subservient to the interests of the Episcopal Church, and to an unhappiness of his personal and pecuniary advantages. This new proposition, which he submitted to the Council on the 20th April 1837, affords an apt specimen of the contemptible act with which he attempted to ingraft his personal schemes on the subordinate degree matter of the law, so as to make the authority so obtained to be used mainly for his own purposes. In other respects it presents a no less happy illustration of the confidence with which the "Universal Church" was displayed in his own private measures, as well as in public matter. After a preamble similar to his High Church University of King's College, London, he thus proceeded to point on a directed enactment to the purposes of his country

"Besides general superintendence it proposed to make the services of the Faculties available for its Professional part Moral and Intellectual Philosophy with Christian Ethics and Political Economy. It would likewise be their duty to instruct each Student as he may to the Establishment a Christian Theology."

It might be an easy matter to deform as the present interest of less sustained by the youth of Canada in being deprived of the services of Dr Strachan as an Ecclesiastical Encyclopedia—but we have at least the guarantee of Dr Strachan's

modest assistance that the faculty of discovering on such abstruse subjects as Moral and Intellectual Philosophy, Political Economy, Christian Ethics and Christian Theology, may be acquired in a less intellectual atmosphere than within the walls of an University. For of what Intellectual Academy did the "Universal Genius,"

> "qui tria, qui septem, qui decem scibile novit,"

complete the cycle of universal study? Truly we may substitute ourselves on the wonderful achievements of the Clergy since the times of an early English Monarch who was wont to complain that not a single priest spoilt of the Thames, and very few on the north could read either Latin or English. But one admiration of Dr. Strachan's innate excellences as—into extension when he leaves us that—the latter will not be so great as on a slightly more sceptic but intellectual, and that he does not intend to continue his services on the finest discovery of these illimitable stores of learning which would have delighted and interested mature maturity but that he will also generously undertake the task of exhorting the Professors for the various departments of Art and Science which exercises difference about prevented him from pre-occupying. To this latter instance of his unbiassed it may have been that the bright forms of Classic and Christian fancied before the prophetic vision of the future vision and that he was slightly influenced by the consideration that another visit to England at the public expense might please rather his grasp the objects of his fervent admiration—but apart from such motives of piety, it was highly proper that his Intellectual Progress and fellow labourers in the Council and on the College should be more intimately by the harmonizing in politics and religion which was evidently defeating itself over the Province of Canada. His, therefore, proceeds in the development of his scheme

> "It seems no matter now in a superior rule, it is understood that the President be authorized to proceed to England, to obtain the Library, Apparatus, &c., likewise to make an absolute visit *efficient professors* as ARE indispensable TO EVER IN THIS COUNTRY."

How interesting a the worthy Doctor's anxiety to see the powerful qualifications of the professors! Not a word escapes him of the due instruction in the Thirty-nine Articles and the doctrine of passive obedience. Every particular consideration as merged in a paternal solicitude for one's life and we are naturally led to set aside proposals for the care of Assistants or at least the monitory recommendation of a frequent and careful perusal of Sir John Sinclair's invaluable Code of Health. It is doubtless a malicious exercise of ingenuity to race under the specious proposition a well planned design for raising the fabric of an Episcopal ascendancy on the University. For while all the modifications effected by the Legislature were intended to deprive the function of the Episcopal ministrations, instead as it by the Queen Charter, yet was sufficient to obviate that if Dr. Strachan could succeed in filling the Council Board and the Professors' chairs with men more hostile to the gifts of the other Christian denominations and influentially subservient to his own authority the strictness of the Legislature might be standardizably terminated, and the University would speedily resume in

original character. The very adversity of its predecessors, however, deferred the scheme to defeat. A survey of the doubtful prospects found its way into the public press, and no agitated the country with rumblings that Sir Brandon feared to intervene to restrain his partisanship to the Clerk of Theology.

The "scheme" was only abandoned to be produced in other shape. Dr. Bracken's ambition was at length gratified with the object of his fervent aspirations. The high dignity to which he had attained, as Episcopal Bishop of Toronto was incompatible with the humbler duties of a Professor's Chair but it became necessary, in such circumstances, to announce, in the University, the subrogation chair of Episcopal succession.

The Original Charter contained that of the Reverend John Strachan, *De jure* in priority, Archdeacon of York, "should be the first President of our said College, and that the President should be ex officio a member of the Council. It does not contemplate the exercise of any extraordinary power on the part of the President beyond that of any other member further than the right of presiding at the meetings of the University, and exercising the usual functions of a Chairman. His other duties are merely logical and not in the Council, and his authority in the University extends simply to matters as to which the Council may give him a special delegation. As a consequence for these services during as a Trustee in the management of the property he had continued to appropriate for about twelve years the annual salary of £200 sterling which was regularly paid until the change Arthur put a stop to this disgraceful misappropriation of the funds. In consequence of this disgraceful circumstance, Dr. Strachan's zeal for the Order only appears to have augmented with his years, but it was observed by the subject that he would relinquish the allowance which he had so long exercised to thwart making a violent effort to secure an identity of interest and disposition in his successor.

The public charges to which the Province was now afterwards subjected, afforded ample opportunity for putting in operation the new series of intrigues which we are now to place before the public. The active interference of the successive Chancellors, the Bishops Arthur and Lesslie Strachan, had acted effect in placing the financial affairs of the University on an improved basis, but the general system and the character of the Council remained unchanged and at length the removal of Sir Sir of Government from Toronto, by depriving the Council of the only member from whom enlarged views were likely to emanate, left the University entirely in the hands of an Ecclesiastical Compact, whose aristocratical and unscrupulous conduct has brought it to the verge of ruin.

In consequence of the University to be speedily opened for the purposes of instruction it became an object of paramount importance in the Council to make arrangements for the change in its constitution consequent on the appointment of Professors. The Charter distinctly recognised an order of precedence among the Professors, and annexed certain duties upon "the Senior Professor" which gave him rank and importance next to the President. In the arrangements for

carrying the University into operation—a Professorial Chair of Theology was determined on in direct opposition to the Extended Charter; and, following the example of the older Universities, the Chair of Theology received the precedence in a statute approved by the Chancellor, and issued by the Council. So long as the Bishop's charter to the Church was perfected, this arrangement was, of course, satisfactory to the parties by whom it had been planned, but, on the abandonment of that object, it appeared to the Council to be expedient—while any uncertainty as to the Individual who might succeed to the appointment existed—to defer the provisions of the Charter by a Council Statute before adopted to these identical purposes. Accordingly, in virtue of the changes in the Head of the Government, the Council framed a new Statute by which they determined the existing of the Professorship on the principle of retaining in the Second Council the individuals who had been most prominent for their loyalty and High Church zeal in the Original Council; and thus ultimately succeeded in placing the University at the most critical period of its existence—the commencement of its public operations—in the hands of parties who had never subscribed the Articles of conveying it into an Episcopal College.

The new statute of the Council brought into existence an office unprecedented in any Academic institution in Europe. By conferring on unlimited discretionary powers in each individual known to be favorable to their designs, provision was made for carrying out the schemes of the High Church Party, without the inconvenience of changes which, if adopted, might have resulted in a withdrawal from the Chancellor or the future Council. To guard against such a contingency the new office of "Vice President," was created by a Council Statute—framed by a well informed Committee of which the very individual to whom the office was to be given was Chairman. The statute received the timely approval of the supposed civil counsel—and it would at the first most unseen of retrospective proceedings to vet on Dr McCaul may have subsequently alluded in a brief but a learned Council to such a one that he was really an unusual burden of great sterling—which it has been the means of conferring on Dr McCaul in addition to the ample endowments he deserves as one of the best paid Professors in the University. The intention of the Statute was only to constitute the interim power of a discretionary Council but by a trick on the heads of Dr McCaul, already mentioned in the Preface as a work and beyond High Church parties the nature of action of the Institution, to restore the Council itself to an life or at the least, a more extensive use for the great mission of his unbounded powers for power. The office itself was not only repugnant to the spirit as well as the letter of the Charter but the powers and duties enumerated in the individual whom the statute contemplated were directly at variance with the acknowledged principles of law by which the functions of Trustees are regulated.

It will be unnecessary a matter of some interest to enquire what steps the agitators and council of Dr McCaul's proceedings under this paper pursued. At present it is merely referred to reference to an event long by Not on y no such officer contemplated by the Charter but direct reference is made to the person

who shall rank next to the President of the University, and who shall be entitled, in absence of the President, to perform his duties,—namely, "the senior member of the said Council present," and the precedence of this major member is more significantly referred to as a subsequent part of the Charter to which the Chancellor is supposed to be entitled, with the President, or one old College, and the next senior member of the said College Council, respecting all statutes, rules and ordinances to be proposed by him to the said Council for their consideration." And the Charter further directed, that "the seniority of the members of the said Council, other than the Chancellor and President, should be regulated according to the date of their respective appointments." Under these provisions it was competent for the Council to have appointed Mr. Neil a dean or proctor of the University—although the policy of conferring such office on one of the Professors might have been questionable; but in either of those offices his duties would have been strictly ministerial, he would have been the servant of the Council, and its dictator, and his powers would have been limited to the powers with which it was expressly intended—the enforcing a discipline which others more qualified had projected. But it was strangely otherwise of the Council to undergo the regime of "the senior member" by the appointment of an officer who should not only supersede him as one of the advisers of the Chancellor and other presidents of him in the Council when his position was accurately determined by the Charter, but who should possess powers co-extensive with those of the Council itself.*

* It is a well recognised principle in Equity that the office of Trustee being one of personal confidence cannot be so even by deed or statute. "The existence of a discretionary trust is a reliance on the judgment of an executor or a stranger who could only be made responsible for personal acts, and it makes no difference that the individual to whose management a public discretion is entrusted is a Trustee. The settlement[1] must act and be personally answerable for the execution of the consequences of his delegation but all the acts of the substitute which are of a discretionary character are actually void. I or as appears by Lord McNaghten's disastrous consequences, the University reserved liabilities to run as can and of a character as far transcending its most probable contents as the utility of the University affords. Valuable lands were evidently disposed to or to be purchased on grounds created by her Providence and parties are encouraged to expenditure of her trust property and at his meanness be University or servant of with the many difficulties which have already considerably hindered a satisfactory and as early as the case all to enjoy unless immediately tendered by the sale of the property of the endowments. But although as stated, being made to govern. A public corporate by disposal of the Manchester Lands, by an Act College Council has no authority under the Charter to effect any such to us, to hamstring a precedence to Lastly, young purchasers whose rights will in all probability be defended in a Court of Equity.

If the Statute had been [illegible] and unless the manner in which the powers under it have been administered has placed it far beyond the pale of law or of reason. Where the subject was associated with no grave considerations a wilful resort to some of the rights to describe how

[illegible] and will has been [illegible] itself,

and to restrain the wanton action of talents which might have made a pedagogue respectable, but which must infallibly serve disgrace by raising for his place the list of government in a University. The subject will, however, meet due consideration, when the educational questions of the first rate fall to be decided.

[1] [illegible]

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It is certain that the appointment was considered to be illegal by the Law Officers of the Crown—and that such is in effect will be sufficiently obvious from a statement of the discretionary powers with which the Statute has invested the nonentious office. The statute proceeds on the preamble that the conferment of the President within the precincts of the University and his personal superintendance of its internal affairs are incompatible with the discharge of his ecclesiastical duties. It therefore declares that there shall during the Presidency of the Bishop of Toronto be a Vice-President, who shall be one of the Professors, and who shall hold a residency and reservely next to the President; that the Vice-President shall preside within the precincts of the University; that he shall preside at all meetings of the Corporation in absence of the Chancellor and President; that it shall be his duty to exercise Episcopal supervision to matriculation, to maintain observance of the Statutes by the Professors, Scholars, and all other members of the University—to censure such observances and discipline by admonition and punishment—to be the general and ordinary visitor of the Students, to direct them in their studies—to propose by all means in his power their progress in religion and learning—provide over College exercises—regulate inferior officers and servants—and inspect all the affairs of the College not superintending in the Bursar's office."

The creation of the office of "Vice-President," irrespective of its own merits, assumes an importance in the History of the University from the circumstances which followed the appointment. It brought the rights of the respective Professors into collision by rendering the order of precedence in dispute, which was easy as it was, after considerable delay, by the interposition of the authority of the Chancellor, into whom hands the Professors deemed it necessary to surrender their appointments. The unfairness of the Council was then, for a time, placed in abeyance, and during an interregnum of several months the favourable opportunity was seized by the Vice-President of the day to assimilate duties to privileges only too well extravagantly with the view to his disastrous Administration. But it was reserved for any thing like personal ascendancy. The absence of competent life during the absence of the Council affords, indeed, a striking argument for the illegality of the office. I would be unwilling to suppose that the guardians of a public trust could so easily turn their powers to their own use by the public by entering the powers vested exclusively in themselves to the instrumentality of an irresponsible officer—but actual experience has given powers which could only be exercised—if they can if be legally exercised by delegation as ill-adapted for the existence of the original Trustees—and yet how was the Vice-Presidency responsible. Not certainly to be said Council when existence was no longer recognized by the Charter and, assuredly not to the new Council for he could possess no authority from them till his appointment had been confirmed. And yet during the interregnum, this office usurped powers of administration as long as the first Council were affected to possess, and equal to the period of

* By another Statute of the Council the important concerns of the Bursar's office were confided to the parental care of the Bishop of Toronto.

his usurpation by a daring violation of the provisions of the Legislative enactment under which the University must now operate, by gross misapplication of the funds of the Institution, and by the introduction of a discipline alike repugnant to the feelings of the community and dishonorable to the interests of the University.

CHAPTER VI.

THE OPENING OF THE UNIVERSITY.

In June, 1843, under the Administration of the Vice-President, the University was opened for the purpose of Education. It is important to observe that the step was taken while the sanction of the College Council was so alive, and before a single student had been gathered for regulating and tutoring the government and discipline of the Institution. All the preparatory arrangements seem to have been made under the discretionary authority of the McCord, as Vice-President; and as the same delegated power extended over the whole of the first term, his name may very justly be associated with the singular details which have given to the University its present rare and ridiculous

The Council now felt themselves in a position to offer open violence to the principles of the Ancestral Charter. Every effort was studiously made to impress the public mind at the outset with their determination to defeat the intentions of the Legislature by imposing on Episcopal character upon the Institution. Under no authority from the Charter, but in flagrant violation of its spirit, a Theological Chair had been established, from which the doctrines of the Church of England were to be taught, by a Professor selected from the University of Oxford—the fountain of orthodox Episcopacy and principles. What was remarkable, the Professorate had [illegible] from the [illegible] of [illegible] Church and Government to no respect or society from other qualifications, but the credit. It must long seem that accident, and certainly calculated to have a material influence on an institution, which no other respects, had been so much a favoured to Episcopal proposition. A chapel had been fitted up at great expense for the exclusive accommodation of he Episcopal members, in which ew y student was compelled unless honoured by the d spensation of the Vice-President to worsh p daily according to the s ated of the Church of England. In the most remote details of dress and dis pl ne, he Le vanities of Oxford and Cambridge, which have been so long distinguished for violent hostil ty to the Dissenters, were imitated with a particular abundant y significant of he spirit in which the University of K ng's College was to be governed. The ferulous taste of the Vice-President was amply gratified with the semi-dramatic effect of caps, gowns, hoods, surplices, g ded mantles and baubles. Liberty fanatics of that comprehensive group of intellect which would have existed upon and incorporated those blights and nobler pestilence

which have rendered the ancient Universities of England venerable in spite of their corruptions, but gentle counsel to tear no higher than the mere moderating departments in all the institutions of which it presided as if under the influence of a monachism more hostile, and not a fully progressive than those venerable monasteries which had grown up on the banks of Isis and Cam, would content upon the genius of Cicadia—and would compensate for the absence of all that was called new, called and adopted in the question of the century, and to the genius and wants of the people? Furthermore by an Exchequer impoverished by its own

* We acknowledge a high respect for the Academic Institutions of England and admire for the corporations under which they are governed. Not but all the Constitutions of the Year 4 remain to be organized as this England owes much of her renown to the genius upon which these colleges and Universities are modelled. It would be an absurd to attribute the greatness of English literature to the course of Academic instructions in the Universities, as it would be to trace the genius of England's commercial prosperity to the restrictions upon her trade. It is not however, against the Institutions themselves but against the corruptions which have grown up around which are there pronounced to become a stationary empire. If we have focused an undue estimate of these models, we have at least the satisfaction of acting in accordance with the first-rate powers of which English literature has to boast. Bacon speaks of these establishments with reprobation. Milton condemned their scholastic influence in retarding the expansion of the mind. Dryden regretted the time which they had caused him to misspend. Clarendon represented himself as an escape from their fetters. Gray and Goldsmith bewailed them with the keenest sarcasm of their poetry—and Johnson considered them as a powerful agent of Gothicism and despotism established. It is odd too, many indeed to establish, by the testimony of a series of the most gifted minds of England's most eminent men, that the world, in these very institutions, discovered the true basis for their genius corrupt one and defined, and we take advantage of it as to create a few of the barriers immediately around, and from which a more favourable reference alone to gift have been expected. Truth could have been ascertained but the sake of sin or self-interest.

"In the Universities of very lower nothing but to believe. But we believe that we have known but which they know are and their framework know that which they know not. They are to a benighted and they never more but by the light of other men's lives and here no more of them were to see or hear."—Sidney's Tract in *Pomps of Knowledge*.

In the Universities all changes are found opposite to the advancement of the no more to all readings and sentiments are here so managed that cannot truly come into any one a mind to think of the rigor or of the common herd. Every and here, free advice necessary to use a liberty of reading, he can only leave the each upon himself without attempting more than from his fellows; and that the Governor will like he will or if for the industry and promotion a great difference to be forbidden. For the studies of the Universities are confined, as I find, almost to the bulk of readers as can have been where it may seem happens to the able to possess a comprehension not disputed and unfounded."—Jeremy Osborne, p. 56, ed. 1.

"Such are the errors, such the fruits of misapprehending an prime merit at the Universities, as we see, either to overrun the seminaries, or such is generally to were borne unlearned."—*Milton, Tract on Education*.

"The two wells of learn ng, Oxford and Cambridge are dried up, stadium decayed, of which arrear an hundred are of a thousand; and if to arrear every more they shall decay so fast here would be almost none left at all so that the world would make a miserable wilds here were none learned to whom a servant the fast."—Sermons of England's Sermons preached at Court.

"The Universities, Oxford especially have been subject I mentioned a corrupt of the principles of those who were sent to have at them so that few of them escaped the taint of it and the generality of the Clergy were not easily prejudged, but ill-

malitiæ extravagantes, a crowd of lacquerel officials was employed to profit his personal purse,—as it is prove that an endowment for the public benefit was to be administered on if nothing more was to be considered than the private gratification of the Trustees."

trusteed), they exhibited against all tradition, as endangering the Church: though it is unlikely that the Church is in no sort of danger here unless the members of the Institute find the documents have running on, which, by reason of its toleration, it never was intended for, nothing can keep up any kind of trade between them and the land however that the Clergy are possessed with, and which they esteem upon all those grounds whereon they have credit." "In short (says Mr. Johnson), instead of being trained to love their country and encouraging the laws and institutions of it, they are rather disposed to love a foreign government, and to become slaves in obedience whereby a strange of interest, preferences or some other consideration, may see them ought again as to the public: but they have the broad principles of love to their country and of public liberty so that they are easily brought to the slavery, if they may be the tools for managing it."—*Bishop Barnard's Hist.*

"Just now, when so fond of indulging in a dream—like enthusiasm as in Oxford, and they deem; but then, even the unpolished Cheshire, the more under all impress, with the mental strength comprising the place of any of their neighbours with the Welsh from the confusion into this state." "What has been the result of the system of education pursued at the Universities? Deists, in fact, free-thinkers, men whose affections are inextricably of Imperialism, and who oppose their principles to the Church, and in consequence, alienation with the philosophy to no end, have come to this, but friend of advancing the means a government have sought in constructing laws doubled upon some several private expenses commercial laws prosecutions were against civil and religious liberty and extremists criminal laws."—*Montague's Lett. of Reason*

Founded by private aid, chiefly, indeed as to professorships, in the sixteenth, and always a the hands of the ruling powers of the Church the Universities have a grasp upon most extraordinary supreme of to the education and support of the Established Church and its members. The most rigorous compliance with the services is as always been exacted of the most conscientious of Dissenters from their admission have practised. As long as Popery was the type of power in its State the Universities were equally Catholic; and indeed the endowments is by far the greater part preserved from the heresy and piety of Reformers, and true guests for the foundation of the Romish faith, and the incidents of the Reformation. Where the State threw off its allegiance to the Pope and became Protestant, the Universities followed and promptly declared the doctrines and dangers of the Catholic freedom to the restriction of the Catholic religion, and to the exercise of the Sacrifices with the ceremonies of their old profession, and, considerably in November be not whilst they had formerly burnt to the elect in and dungeons of Protestants. In the latter case very careful of not many consents and no to oppose in his endowments could even be hoped for in any case when was a property of no hopeless of or to be those of the Church, and usually be an avowed observer in of his small every day as well as by occasional declarations and signatures of a more solemn kind."—*Edin. Rev.* Apr. 1808.

One foresight, observes Dr Parry, sometimes the beginning and end of all his public ostentation which any candidate to Holy Orders is required to attend, previously to receiving upon his profession.

The University of Oxford, *Professor* Powell confesses, "is not on only of good habits—(it is nowhere) learn as to liberality in religion, and we study logic in a very humble way."

* It is a deplorable fact that the number of admitted Officers at K ng's College nearly equals that of the Students which have subscribed during the three first years.

The great end aimed at in establishing the Collegiate residence and discipline in all those unendowed establishments which have caused the existence of Cambridge to undergo an historical correlation between a School of Learning and of Gentlemen-makers, showed here little this Vice-Presidency more as authorized the history and character of those Institutions upon whose mechanism he seemed to have gazed with a sort of savage bewilderment, without being able to comprehend any one of the principles upon which it had been set in motion or kept in operation. Under his administration the first of a series of Scientific Establishments has been completed at a ruinous sacrifice of the endowment, with no other apparent object than that of giving the University the paltry monopoly of the board and lodging of a handful of Students.

It is, indeed, an undeniable fact, that such establishments, formed on the Identical model, are to be found at Oxford and Cambridge, but at it is from that that they have been the principal causes of the immorality which prevails to an alarming extent at those famous Schools, and they not now only tolerated as part of an ancient system,—the antiquities under which they were established having long ceased to exist. In early times, the English Universities were not merely national, but were, in every sense, cosmopolite Institutions. Having the middle ages, Students flocked to them as to the Schools of eminent teachers, from every country in Europe. The vast concourse of Students consisted of a minority of Judgings and ecclesiastical demands for rent in the towns where they were established, and a serious difficulty was thus created in the poorer classes of Students, whose means were unable to meet the demands which the increasing celebrity of the Schools occasioned. The benevolence of individuals was stimulated to relieve the Students of a burden, which many of them could ill afford to bear, by providing them with food lodging during the course of their studies; and the denomination of the Students consequently became a permanent part of the system. In the Colleges that system has become founded solely for the support of indigent Scholars, but the practice of donations on bad been to a great measure perpetuated, at Oxford and Cambridge by the illegal monopoly which the private Colleges have usurped over the real seat Universities. In every other country or Europe the system of denominations has been gradually but certainly re-organized on a manner agreeable to the character and not ways of by the necessities of the times. The University in things present no long more than an aggregation of a numerous, or which the proper business of the University or constituted with reference to the public benefit and not as Normal Schools for the train ng of Vice-Presidents, as the public expense. It was reserved however for Canada to lead the way in a re val of those Monkish features of the ancient Universities, or of the more especially in excuse the Principle profession of her people since by the adoption of a system to which also was constructed neither by the associations or her interests.*

* The origin of the Collegial system was almost contemporaneous with the establishment of the earliest Universities, and was adopted from the University of Paris, which was the model upon which the English and most of the Continental Universities

It is not the morals of the system upon which the College Council are proceeding that we have at present to do. Their constitute basis for architectural embellishments and ecclesiastical arrangements, and the adaptation of their means to the end proposed will be more appropriately discussed in the subsequent Chapter. But surely the people of Canada do not receive it be wanted against the fanatical denominations and Iconoclasts, which the system of denunciation will inevitably introduce. We dare not stand and gaze by more than a bare reference to these unusual practices, which notwithstanding the opinions of an extensive palace, prevail to an alarming extent at Oxford and Cambridge. The truth of the charges which have been frequently made against these Institutions has been fully established in the Select Parliament by resolutions from the personal experience of some of its most distinguished members. The supreme inconsiderations that has hitherto attended Mr McCaul's administration will scarcely afford a guarantee for purity of morals at King's College under the monastic system, and under no circumstances should we be satisfied with any less of necessity be addressed for so hazardous an experiment as a city where there exists sufficient competition among Boarding Establishments and ample accommodation for the higher order of Students that could be introduced, even were the University to accomplish the purposes for which it has been established by law.

The only argument to which any weight can be attached for retaining the system of denunciation in the English Universities is, singularly enough the only one which the Trustees of King's College seem to have dispensed—namely, the opportunities which it has afforded to employ Clergymen in a higher station of academic instruction. To the honour of England it should be acknowledged, that she has offered facilities to persons from the very humblest walks in life for rendering themselves masters of all the knowledge that it was in the power of the most learned Professors to bestow and it is gratifying reflection to the sons of the greatest names which have adorned her Universities has been the greatness to have boldly fled to the reliable degrees of Canada a rule unredeemed which was established to afford to the youth a liberal education adapted to the circumstances of a young country has been so fettered down and wasted by selfish extravagance, as unsophisticated, and a basis that for personal apparent interest that to the present moment she has not wherewithal to educate a free scholar at her University

were formed. In Germany the Collegial Establishments never obtained a decided predominance over the Seminary of the Universities. In the older Universities of the Empire, the system of Convent-and Establishments only attended to the instruction, science, and superintendence of the youth, and such institutions were no where called more extensive after the commencement of the modern in century. Prince Wilmar, Heidelberg, Collegio Lolgnes, and a few others, at present, and, to say it more, such establishments by some by several of Letters they have been unable to see any very importance. In England where they have long occupied the foreground of the Universities, the College plans have owed their stability to their immense wealth. The narrow system of mental instruction has accordingly produced noted, and has tended, to a considerable degree, to impair the efficiency of the Universities. That I make these charges against these Institutions, but has been long a matter of complaint by their warmest admirers.

It would be unnecessary to waste argument on the system of general denunciation, when the designs of its projector are objectionable in a more aggravated shape than that of imbecility. The attempt is subservient to the great scheme which the Council have cherished with undying affection—to convert the University, by the instrumentality of domestic superintendance, into a nursery of High Church prejudice and intolerance. And in pursuance of this design, another purpose favourable to the same object will be effected. The buildings necessary for the proposed domestic accommodations, and which can never be adapted to any other purpose, will make such an inroad on the endowment as will effectually silence all demands for a participation in its bounties by the other Christian sects. The modification of the system which has been introduced until the necessary arrangements have been completed, has proved its perfect adaptation to the purposes intended. The aggregate fees of the Students during the first and second terms have been large and will serve to cover the expenses of their classes: but the practice has afforded an ample opportunity for animadverting on the exercises of High Church tenets which lend their potent qualities to the small host with which the Students are regaled on these festive occasions. The Vice-President, unwilling to put a stop to such virtuous exhibitions of youthful orthodoxy, has with much liberality granted dispensations to each of the Students we have interposed these prejudices to the general current of orthodox sentiment.

It was an ominous circumstance that the first step which was publicly taken in opening the University, should have been distinguished with gross and reprehensible disrespect. The Students were called upon to subscribe a declaration of obedience to the Statutes, Rules and Ordinances, framed under the provisions of the charter; and the Vice-Provincial gave the sanction of his authority to this solemn mockery, under the full consciousness that not a single Statute had been enacted by the Council which could in any respect serve the designs of the institution. The Charter had indeed ordained that the due place and government of the University should be reformed through the agency of Statutes: but as the Council had determined that the Charter should may take effect in so far as it favoured their narrow designs, they foresaw that they could subject the law with more perfect impunity by translating the government to an irresponsible officer than by placing that office under the operation of legislation, on the principle of which they might have been brought to punishment for a betrayal of their trust.

The design of subverting the law by a mere evasion of the provisions of the charter was more nearly but not fully disclosed in the Inaugural Address of the President whose literary predilections have so frequently proved disastrous to the worshipper of his creed. He alluded to the principles of the original charter as been a repugnance of the value he attached to the true intentions in behalf of the Episcopal Church. He characterised it as "the most liberal act could be framed on constitutional principles"—and he avowed how he had struggled for its repeal by reform, and whose on his had removed the sanction of a paid secretary modification of its exclusive provisions, as "unchained equity," who had taken much pains by animosities and misrepresentations to poison the minds of the people

against the charter." His refusal on terms of warm admiration to the enactment which the College Council had repeatedly made to "the substance, language and denomination" by which they designs had at length been frustrated. The London University, to which in some respects the Assembled Charter had succeeded the University of King's College, he denounced as "an anti-Christ attempt which had arguably failed, as if such godless institutions of Belial ever could." "The same considerations," he observed, "also convince me that had the University been permitted to proceed under the Royal Charter without alteration, it would have been far more efficient for all the purposes intended. This is in general terms." And he defended a recurrence to the original system on the ground that the Episcopalians were now entitled to an exclusive University, inasmuch as the other sects had recently renewed their exclusive prohibitions by the establishment of Colleges adapted to the principles which they severally professed.

In such language did the highest Episcopal Dignitary in the Province and the Chief Executive Officer of the University denounce the law under which the Institution had gone into operation, and distinctly advocate its violation before the people who had sanctioned under the solemnities of pure religion that exemption and generous toleration which for a time so perfectly suited, satisfied, and inspired—recently all the offices, both public and private, of peace and war.[1] "Was it to be expected that the law would be honestly acted on when its execution was left in the hands of men who had thus openly avowed themselves enemy to its spirit and principles—and who had resolved, within the limited sphere to which as had at last been forced to restrict the Institution, to thwart and oppose every impulse the progress of the country and the moral and social improvement of its population? Was it to be tolerated that the mere individual who had raised himself to the dignity which he then enjoyed by a long course of indirect persecution—and by resisting and losing sig on the civil and religious rights of his fellow subjects who had, by the 'supreme fiat[illegible]' of calumny and misrepresentation possessed the ear of his Sovereign in regard to the loyalty of his countrymen who had bled and battered on recent occasions and charges of disaffection should commence the public discharge of his duties as a national University? Was the outing on the assembled youth a respect and hatred of the law and by avowing his determined to subvert it authority If ye relaxed inaction may that close production in the possession of corrupted a power so did by the already extraordinary of his mis bias, the sun has been robbed of that majesty which gives it its highest claim to obedience.

This spirit in which the University was opened has already exhibited the traits which it was so well calculated to produce. The absence of Statutes for regulating and enforcing a proper discipline has been given an immunity by the toleration which has been quickly appreciated by the students, and hence length reads the last before an object of unqualified mirth and duration. There is not a student in it who is the while in not well aware that no Statute as yet made which he can be legally

[1] Sorry

punished for breach of discipline. It may flatter the vanity of the Vice-President to assume the affected posture of literary "dogmaticism," or "subjectivism" and "rationalism," but every youth is aware that neither legal indulgence nor legal punishment is conveyed by these empty words—and that until Statutes have been framed for regulating the studies preparatory for degrees the arbitrary inflictions of the Vice-President cannot affect his claims to University honors. The shocking failure of the terms of miserable explanation by which the Vice-President has attempted to establish an exclusive personal authority ought to have overturned him, if his previous experience was sufficient: that an University name is governed on some settled principle, and not by the whims of a caprice-ous sire. The hopeless attempt to introduce the legal authority of the College Council on an inordinate pretext for personal power, is of a piece with the rule which it modified, and would be a source of gratification, if its disastrous influence on the character of the University did not create the most anxious apprehensions.

The Medical School,—in many respects the most important department of the University in the present position of the country,—has experienced to an alarming extent the effects of this mismanagement. In a country where the opportunities of acquiring Medical skill are so limited, it might have been expected that every means should have been adopted to render the education of practitioners easily accessible, and that in this department at least public interest would have prevailed over scandalous bigotry. But hereabouts the blind influence of the Vice-Chancellor extended to blight the prospects of the country by an ignorant interference with the duties of the Medical Professors; and by the application of his exclusive principles to a department where free operation would have conferred considerable and lasting benefits on the country.

Under the present arrangements the only real benefit which the public can derive from the establishment of the Medical School is the admission of "Occasional Students"—who may attend the lectures of be to other professors, but can it not be entitled to any of the honours. To entitle the Student to Medical honours his usual, previous to his professional course, have taken a degree in the Faculty of Arts. The Medical Student may thus study at King's College—he may reach the great point of receiving Medical honours with advantage to himself and to the community and to the credit to the University—by the stamp of skill and knowledge to which he has attained to be sent out into the world to be published—he must go to an town and subordinate position to be most expensive himself here at Cam—he must go to a foreign land and ask from a foreign University that degree for which his literary and medical acquirements have entitled him—that he may be on a level with his fellow students who have gone through the same professional course, by whose religious p ests, or, if may be their examples, have not prevented from taking a degree at an Eng ecepal University.

No part of be conduct of the Vice President has proved his incapacity for the post he holds to his countries, as which he has ignorant and illiberal interference with the management of the Medical School and, on a necessary consequence, an impairment of the University transmitted as modern by us to a remote. We also have

The tercentenarian of King's College affords a melancholy illustration of the disastrous policy of placing the administration of a law in the hands of parties who have an exaggerated interest in cultivating it. Had the spirit and intentions of the Amended Charter been fairly carried out—and had private interest not usurped the place of public duty, notwithstanding its very obvious defects—the Charter was sufficiently wide in principle to comprehend the advantages of a liberal education; but by its gross and fatal perversion a system has been introduced entirely in harmony with the first principles which prevailed in the country not connected with the advantages of sound collegiate instruction. That disproportion from the rights and extensions of the Episcopal Church here been granted, is no answer to the charge of a monopoly in the augural session—and of a betrayal of trust in imposing on the University the sectarially Episcopal shackles. The very existence of disproportion is in itself at once an admission of that fact, and an assertion of superiority claimed by the University on behalf of the Church by which they are granted. In not the granting of disproportion as a matter of favour an assertion that those who receive from are only entitled to the full privileges of the University by sufferance—and does not sufferance imply something of slavish degree?

But under what interpretation of the Amended Charter can any one Church obtain an ascendancy in the University? If the Episcopal Church has a superior right, upon what possible grounds were the seven sects newly made? The privileges of that church were already enjoyed by the original Charter—was the amended law at the time in any way required by the Council, necessary for the further security?

I has become quite easily obvious, that before the Lt. really can fulfil the purposes for which it was founded, the parties who have grossly perverted the law and frustrated its intent must be removed. The succession of the country the power and prosperity of its inhabitants require that his majesty of the law

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extension in another place to advert to his personal marriage to despatch the position of his medical profession—to the progress of the recent death in which he was a party, to the reduction of the subjects before he notes seen set by a dame Chancellor. He was called more particularly, it appears, to the consideration of the petition which has given to the arrangement a proposal by Dr. Webber and others in which he cordially would have glad to respond at conference. I was however unable to do so, for the petition is against the Medical School. I should have taken occasion to offer vigilance to Mr. Webber and his medical colleagues, as a man whose ability and zeal were distinguished by his generosity as it matters regard my which he was personally opposed. The failure of the Medical School has been the result.

If it be thought he was never prone very much attacked the system of sectarian bodies his Right to take being passed we have only to say that we have proceeded on the unbiased understanding in his Universal in regard to the admission of medical students. An application to the Senate was made, at his recommendation, at the last term on behalf of the Dental Society, to ascertain the conditions on which Dental students could be admitted to the private lectures of the Medical School.—The application on this term, as on the two occasions after consideration it was kept pending on his still has the Star on would be paid shall. The Gent and those Students were not a little taken aback when informed to be conceded, but the Society at large are not been passed proving the deplorable discouragement under which the Institution is labouring, and by this I is efficiency is so passed.

could be vindicated by the equal punishment of the person by whom it has been outraged. If conformity to the Episcopal Church were required by the law, there might be some reason for giving it an ascendancy in the University, as a national seminary of education. But when, on the contrary, the great majority of the inhabitants of this Province differ from that Church in doctrine, discipline and worship—when the other denominations are powerful at numbers, in influence, and in security—embracing in their ample bosoms of the enlightenment, the wealth and the stamina of the population—when there exists no difference in the civil rights, privileges and powers of the people on account of the religious opinions which they entertain—why all would the same equality not exist in the case of learning, by admitting all classes and denominations on the same principle of equality to a free enjoyment of its benefits on their station, and afterwards to the reward and record of their merits in the attainment of its offices and honours. There is no monopoly of morals or good citizenship by any particular sect—why should civil privilege be confined to one denomination which only enjoys a share of the virtues that are equally diffused over all?

It is a bitter mockery to say that the various denominations of Christians are admitted by preference to enjoy the advantages of standing for the second Council Professorship in the possession of their peculiar modes of faith, while all them for obtaining the honours that the University can bestow—but, inasmuch as they will not submit to Episcopal discipline, they must look to the other Universities of America for conferring those noble distinctions which only University with this favour nature and religion and morality—an amount of consolation no reasons. Are the civil rights of the Canadian people thus to be gauged by the measure of their theological opinions? Are the creeds of the fellow-subjects upon whom we are a system of negative proscription, and to be made a matter of punishment or reward? Is the free majority of the population to be placed under a sense of personal injury and a stigma a positive evil by which they are to be rewarded in the paths of professional life? Are honours lately won to be refused on the ground of creed? Are the people to be enjoined in the face that they are illiterated by the laws of their country and that they are precluded from the enjoyment of benefits which are open to others by the illegal regulations of an exclusive establishment? Are all these powerful ties are to be inflicted, not only without the sanction of positive law but in flagrant and open violation of an express provision to the contrary—by parties who by an unjustly failed in establishing a legal orthodoxy seek to allure proselytes to Episcopacy by holding the most specious inducements under the mask of distinctions and favours, which they will refuse to confer the actual they can discover the there is really by to themselves? If the great purposes for which the University was such inhabitants been in the grant ; and unquestionably perverted—? the have order which the Province were bound to act, has been thus unconditionally violated—will it be said that there exists no power in the Constitution to bring the guilty persons to punishment, and to perform the Establishment from the errors of a superficial prosecution?

CHAPTER VII

ADMINISTRATION OF THE ESTATE.

The Chancellor having returned from appointments in the Provinces under oath does not find the order of possession the authority of the new Council was called into existence in October 1865. Before advertising to the proceedings which have since taken place, it will be proper to give such a view of the administration of the Estate as can be obtained from the materials in which we have had access. The irregularities of the Estate's affairs are not the only statutory which exist to prevent a thorough understanding of the University affairs. A very recent act modernisation has made the Council vary as furnishing details, and accordingly the Returns which have been made to Parliament are studiously unreliable and defective. Sufficient trials in any direction to establish the character of King's College as the very Paradise of Jobs, even in a country where unscrupulous waste and misappropriation of the public treasure have imposed scarcely any limits to credulity and surprise.

The first general investigation which appears to have been made into the state of the University affairs was instituted by Sir George Arthur as Chancellor, in 1838. In the course of that year an accountant was appointed to examine the Bursar's books, and to report on certain alleged irregularities to which the Chancellor's attention had been directed.

It appeared that the Bursar's accounts of receipts and expenditure had been made up from loose memoranda, at first monthly, and afterwards quarterly—that the accounts themselves consisted merely of abstracts, and that no vouchers constituted the only record of the moneys received or paid. No care had been taken to test the accuracy of details by means of a balance sheet had in fact, no attempt had been made either to present the accounts in a fair or form or to show the connection of income with expenditure. The books themselves had been kept in a most slovenly and no connection existed between one book and another. No credit had been kept, and no register of the tenants' household kept existed. Where complaints had been made by parties who had not received cash for payments, arrangements unfavourable to the Estate had been frequently made in order to secure the absence of system. In fact every thing appeared to be in the most hopeless confusion, and evinced a degree of carelessness and ignorance which but for the active attendance of the Chancellor would have speedily brought the Estate to ruin.

It further appeared that large sums had been withdrawn from the funds of the Institution for the private accommodation of the President at first without any authority from the Council and will not any secure promise been given at the time that, afterwards, notes of hand by parties in no way connected with the University and which had been given to the President in the course of a private transaction, were taken up by him with the Council in security of the latter. In connect on

—ith the exception of an increase light upon the system of management nearly eleven years ago, viz. 1820 — depicted from the Right Hon. C. Poulett Thomson, M.P. (then President of the Board of Trade)

Government House, Montreal,
2nd May 1839.

"My Lord,—I observe by the papers, that, on the 30th March last Mr. Pellington took occasion in the House of Commons, to ask your Lordship certain questions in regard to the Masters of Merchant and Servants. With respect to the latter, he is reported to have said, that Dr. Strachan had been high in favor of the system as President of King's College; in consequence of his appointment as Bishop, contrary to the opinions he once took him to be, he accepted the Executive office in proceeding which he therefore no sail and accept.

"It is stated, that these restrictions were used by Mr. Pitt before Parliament had succeeded from his ignorance of the circumstances under which the salary as the President of King's College was declared void. I had, therefore, my duty to place those circumstances to your Lordship as I gathered them while in Upper Province, as well as to bring to your notice some observations relating to the connection of the Bishop of Toronto with the University, which I have hitherto delayed doing from a consideration to which upon transactions which I cannot consider applicable to the matter concerned.

"Your Lordship is aware that many years ago, a Royal Charter was passed for the establishment of a University in Upper Canada, and that by that instrument the Archdeacon of York was appointed ex-officio President.

"From various causes which have, at different times, been fully reported to you; Lordship's predecessors, the institution, notwithstanding that it enjoyed a considerable endowment, was not, for a long time, been used, brought into operation. Various efforts, at different periods, to put it under the management of the Executive and others were proposed to the Legislature, but they were opposed and defeated by the President. At what period Dr. Strachan first came to reside in I am unable, with reference to Upper Canada, to state, but the records of the Colonial office will supply the information. From a correspondence which Sir George Arthur has despatched to your Lordship, of the 8th June 1838 you will perceive that up to that date the Bishop had continued to draw it.

"But a the course of last year an investigation has been instituted by Sir George Arthur into the management of King's College the fact that the Prince Rupert was daily increasing from its funds an income of £2000 sterling, was brought to his notice. Common sense that no future as any it and beyond those of other municipal members of the Council were attached to the College there were no immediate prospect that the institution would be in a state to operation—and that every shilling taken from its revenue was so much deducted from the means of education in Upper Canada, since every farthing appropriated to it irreparable as a charge to private funds as appear in all other funds. He therefore submitted reasons and recommended that your Lordship will approve the course which Sir George Arthur adopted. I do, indeed, think it to understand how the constructions by which he was actuated should so long have escaped the notice of the Bishop himself.

"But the enquiry into the state of King's College and the production of some various called for by the Assembly brought out other matters as to the management of the Institution. These appointed that the income of the Prince would by 1840 be £3000 a year, and I became necessary therefore to consider how to appropriate this large sum in a place and manner as to secure the most extensive

sums had been be moved from the funds in the University by the Proctors for his private purposes, on the remainder of certain sums of land, and that several of those sums had not been paid when due.

"Upon my entering on the duties of Chancellor of the University the features of that lately extremely distressed my attention, and I was compelled to institute some inquiries respecting the accounts which were rendered to me.

"This correspondence I now enclose, and I have only to say, that it was not without considerable hesitation that I could entirely accede to the very pressing request on the Minute in the Council, which closed it, instead of proceeding to further measures.

"I have, &c.

"C POULETT THOMSON

"The Right Honorable

"LORD JOHN RUSSELL, &c. &c."

The enclosure referred to in the despatch, was a letter to the Earnest in the following terms:—

"Downing, February 15, 1840.

"SIR,—Your letter of the 12th, inst., had it indeed have been left before the Governor General, together with the enclosures. With reference to the declaration of his accounts of the Treasurer, and the necessity to take recently from that office, his Excellency is sorry to find that no remedy how ever possible, and if so only to be hoped that the property of the late Treasurer may be found sufficient to prevent ultimate loss to the University.

"With respect to the loan of money stated to have been made to the Bishop of Toronto upon the security of certain lots of land, and upon which subject, to address to you remarks is letter has been transmitted addressed to yourself by the Right Rev. Doctor, I am commanded to inform you that his Excellency the Governor General feels himself compelled to regard his opinion of the information of the Council.

"His Excellency wishes to touch altogether upon the consideration of in circumstances under which he has now sought, alluded to a his letter of the Right Rev. Doctor and which must be had no doubt the subject of inquiry to receive any explanation. The result upon which he is not all a pen to enclose to you, as Chancellor of the University, are for communication of the which he have now made by the Council, and the actions that has been taken upon the occasion y ers.

"It appears that a sum of a considerable sum was made by the Council in case of the members of the Board, such a proceeding he Excellency cannot by any means view a that act of an ordinary money transac on The employment of the funds in a public trust by one of the trustees in his own advantage, in a personal re which is his especial a highly objectionable and taken and to destroy the confidence of the public in the management of its University. With regard to the second point, his Excellency reserves to be obliged to remark that a proper course has not, it has appears been pursued I appears from the date must had no less than a even notice of had are over due of which three have been due since the yea 1837 three since 1838 and the rems since since the 24th December 1839 In forwarding of his a ed particularly direct attention be observed to a the advent of a public trust, a sum as can require be appears above all things

In England such a transaction would be visited with severity in a Court of Equity (Vide to the original account.)

favourable. If a sale of land be not discharged at maturity by the party first liable, the simple and ordinary course is to sell upon the endorser (if any) to do so. No such steps seem to have been taken, and the acquiescence of these bills have been permitted to become dishonoured, some of them have very considerable sums.

"I have, &c.,

"T W C MURRAY,

"*Clerk of Convocation.*

"Dr Harris, *Harrow*."

The last returns to Parliament of the University's affairs, were prepared in May, 1843, and laid before the Legislature Assembly in October of the same year. They professed to give—a statement of the affairs of the University of King's College, and also of Upper Canada College, for the years 1839, 1840, 1841 and 1842"—but the manner in which they were prepared, so successfully defeated the objects of the Legislature in calling for them—that both Houses found it necessary to appoint Committees for the purpose of making further investigations, by the examination of books, papers, and persons. This examination was in progress, and evidence of an extraordinary character had been elicited, when the investigation was unfortunately arrested by the proceedings which terminated the last Session. In these circumstances, our Financial statement must necessarily be very imperfect, but we are fortunately enabled to throw much light upon some parts of the statement of the College Council, as may enable the public to form a fair judgment on the merits of their administration

	Acres.
The original endowment of King's College amounted to	550,944
Of which there have been sold, up to 31st December 1842, - - -	119,840
Leaving on hand, - - - - - -	115,104
Of which there were on lease, - - - -	95,984
And unoccupied, - - - - - -	19,000

The sales were commenced in the year 1828, and their amount has since risen to 1838. In fifteen years. The number of acres sold has varied in different years according to the exigencies of the time. In some years the number of acres sold has exceed 300, wh it is smaller and at no only a period of the year as the year 1833, no less than 15,000 acres were disposed of. In 1826 there were 21,382 and in 1836, there were 12,000 acres sold. The average price received between the years 1826 and 1842, was 22s 8d per acre.

I thus appears that before the University had gone into operation considerably more than one-half of the original endowment had been disposed of. A fact so startling w ll natrum by land to the company under what authority did the College Council proceed at the absolute disposal of lands which had been appropriated for the purposes of science, and what extraordinary circumstances could warrant a proceeding so repugnant to the well-known principles of law and so inconsistent with the purposes for which the endowment was made

In a legal point of view there cannot be a doubt that every sale which has

lease made is void. The Court gives the Council no authority to sell, and the Charter is equally silent.

The administration of the endowment must, therefore, be subject to the common principles of law which govern similar foundations. Although the University of King's College may in some respects, perhaps in the nature of a rival corporation, —in, for instance, in respect of its Professors who have eligible counted to itself charter pro tanto at Lehrer—yet the purposes for which it was established give it in most respects the character of an elemosynary foundation. It was founded for the purpose of imparting assistance to its members in the prosecution of their studies; and, in the administration of its estate it is, therefore, subject to the principles of law which regulate corporations for charitable purposes.

Now the Trustees of an elemosynary foundation are not authorized by law to make an absolute disposition of any part of the estate. The Court cannot authorize such a disposition, and Parliament could not do so for Acts of Parliament have been sometimes obtained to authorize the exchange of an estate belonging to a charity for another but in no instance, so far as we are aware, has an estate been passed for conveyance upon entire sum money.

The Court of Chancery has extensively declined to sanction a sale where the authority to sell is not given by the instrument under which the Trust is constituted. And even where an implied power may exist, the Court will not interpose its sanction without sufficient proof as will that the sale is consistent with the prevalent Administration of the Estate so that it is enforced necessary by the circumstances and circumstances of the Trust.

But what possible circumstances could arise consistent with a conscientious Administration of the Estate under which the College Council were constituted to suppose that it was necessary to sell it? The Revenue of not up to an operation for thirteen years previous, and had not made a separate proposition and were glad to let the estate at the very low rate hereinbefore mentioned; and at a still already made to the lessee exchanged for the original Endowment an income of more than £2,000, as stated, was obtained from the Revenue during the first year of the Trust. His income accrued notwithstanding the of the loss of the Estate, had greatly increased to more than £2,000 at succeeding the intention of the Institution—and yet, it appears from all no sense, the Royal Council have found it necessary to use about his property by dispensation of the most valuable portion of the Endowment namely the lands under Crown lease with all their valuable improvements, before it was known that the result of the Revenue

whose subscriviency has been all along purchased by pickings and peculations—the system for keeping up this establishment was introduced by the system of sales of the Estate—the sales themselves being not only unnecessary, but perpetrated in flagrant breach of trust—and, notwithstanding the ruinous dimension of the Estate, the Council have little more to exhibit of its proceeds than a wretched boarding house for the accommodation of twenty-four students—an avenue—and a large amount of irrecoverable arrears of rents and instalments.

It is notorious that the manner of constituting the sales has been no less illegal than the principle upon which they were effected. At various periods of the term, a determined opposition has been given to the sale of lots by various members of the Council, who have succeeded in putting an end to every Council to a position which has, notwithstanding, never ceased in the Bursar's Office. A great portion of the sales has accordingly been made without authority of the Council; and during the course of the last year nearly 18,000 acres were disposed of which the authority of the Council was in abeyance. The sales have at no time been made under statute of the Council as required by the Charter; and indeed such have been the pressing necessities of the Council, that valuable lands have been frequently disposed of, at prices greatly below their real value, for the sake of an immediate instalment, and no great anxiety has been exhibited in securing the balance of the purchase money.

The Receipts of the College Estate, from the year 1862 to 31st December, 1843, were as follows:—

Ambursale given to Upper Canada College, in fourteen years, exclusive of Interest, amounted to	£49,130	4	42
Purchase of the Site of the University, College Avenue and Grounds, Improvements, &c.	33,148	1	9
University Buildings, &c.	8,721	10	1
Management and Incidental Expenses,	14,287	14	24
In all,	£105,287	11	6

In the Parliamentary Returns no details are given, from which the liabilities of the University can be ascertained. It is certain, however, that at the date the Return now under the Inspection of the Council were communicated, and under the head of "University Buildings &c., upwards of £10,000 were disbursed in the course of the year 1843. In the absence of the details, which were necessary to give any value to the statement, I am difficult to make precise allegations of mismanagement and misapplication, but we are greatly mistaken, in the most when we say that upwards of £2000 have been dispursed by incumbent on of the Professorships before a single lecture was delivered in the University. That no part of this sum has in any respect benefited the Institution will be sufficiently obvious on an examination of the various heads of expenditure.

Upper Canada College.—The origin of this Institution has been noticed in the General History of the University. Its management having been placed in the hands of the College Council, it has participated, to a large extent, in the

character which has attached itself to the University with which it was incorporated, by the amended Charter. The inner College has been chiefly useful as a school for preparing students, at a cheap rate, to the children of the higher classes. During the fourteen years in which it has been established, it has received a Parliamentary grant of £1000 sterling, per annum, and although it has also derived a considerable income from its own beneficial endowment and from the fees of the Students, during the same period it has drained the University to the extent of £40,000, including of interest. Although the dues had been fixed at a very low rate, yet owing to great negligence in their collection and a system of favouritism practised towards individuals, the sum of £6000, for dues, was given up as in arrear on 31st December, 1842. So long as the College Council have had the endowment of the University in full under their control, the same College has been furnished with a profusion of additional means without a penalty it may be asked in Great Britain. The average number of pupils has for some years been about 120, of which 100 have been day pupils, and 20 boarders. The Establishment supports a Dean and 11 Masters, consisting of visiting Teachers, giving an average of 12 pupils to each. The salaries of the Masters are as follows:

Principal of U. C. College,	£466
Three Classical Masters, of £333 each,	999
Mathematical Master,	266
French Master,	266
Two English Masters, at £133 and £133,	266
Master of Preparatory School,	266
Masters of Drawing, Music,	133
Riveting Master,	66
	3132

The dues for tuition are the only dues which are paid into the College funds. The Boarding Establishment is on the hands of one of the Masters, and the College Council is responsible to him for the deficiencies arising either from insolvencies or desertions in the collection. The stationery and by the pupils, and the repairs of buildings, repair the outlay, by which the former are kept by the Council. The annual charges of the Establishment have amounted for many years, to upwards of £3000. Taking on an average of the four years preceding December 1842, the dues for tuition have amounted to £1113 per annum. This sum actually collected has, however, fallen far short of that amount. It then appears that, independently of its own endowment and the College dues, Upper Canada College has received assistance from Parliament to the extent of £6000, and from the University to the extent of £2 00 per annum. In the evidence last given before a Parliamentary Committee, by Dr McCaul who was Principal of Upper Canada College for upwards of ten years, and ex officio a member of the College Council he admitted that I an office of £1000 per annum, with a promise of keeping the buildings in repair and the grounds in order, had been made the endowment would have been sufficient in a highly qualified Master to undertake the superintendence of Upper Canada College. The exertions which he has made, however, either as the organ of Principal or as Trustee of King's College, to endow the expenditure are unknown to the public.

and it is believed, however has been greatly felt by other Institutions. During the session of 1842, when a vacancy existed in the office of Principal, he attempted a characteristic modification of the system, which was intended to leave the effect of limiting the various offices of Principal, Vice-President, and Professor in but one person. This attempt failed in the manner which will be afterwards adverted to. At present, it is sufficient to remark that on the face of repeated announcements in the late Sir Charles Bagot against the appointment of a Principal, on the ground of the unnecessary expenditure, and the readiness of any of the Masters to fill the situation, in which the President of the University concurred, with an express denial of the Chancellor's right so to make the appointment, the same influence was brought to bear upon Sir Charles Bagot's successor however, to secure the office to the present Principal, whose superior qualifications, as a plain man, were at length discovered to be available in carrying out the intrigues of the College Council.

Occupancy Restricted.—No portion of the buildings necessary for the proper business of the University has yet been commenced. The buildings formerly used by the Professors of Upper Canada for lodging and temporary accommodation for Lecture-rooms, Library, &c. In the enlargement of the design of reducing the endowment by the erection of Conventual Establishments for the accommodation of the Students, the Council have expended the sum of £16,000 in the erection of a boarding-house. This building is not yet quite finished, but an estimate of the entire expense can at present be made. A rent of £1,000 has lately been extended on a range of wooden cottages by the buildings, when completed, is calculated for the accommodation of only 84 Students. The Council have it in contemplation, also to a separate suite of the Endowment to be erected, to receive the general accommodation of the Professors, to receive portions of Students and Professors and have a house in connection with every Professor, so as to give superior private accommodation to an inferior expenditure of funds. In the meantime they will proceed a step at Lennox Chapel on that an amphitheatre the present building. The expense of buildings for the same accommodation of 100 Students may be estimated at about £500 but or about one-half of the rental rate of the Endowment. The great advantage to result from the scheme, will be the absorption of the whole funds in High Church purposes, in order to frustrate any attempt to obtain a participation in the Endowment by the other Christian sects. To accomplish this object the influence of the Bishop of Toronto will be exerted to have all the Professors with the exception of Mathematics and Classics, to be in Holy Orders. Those can be made, however, the only purchase will be gain by a participation in the fund. The building is ready erected is calculated to have been in mind under the careful and able presidence of the Vice-President, and as a happy supplement of that position as a of such income and natural economy which affords the most possible accommodation at the greatest possible expense. For the purpose of giving external symmetry to a building entirely devoid of

architectural genius, the whole range of experiments have been so constructed that the windows are exactly on a level with the floor—apartments of a few feet square have done of their walls instead of one same, and a great portion of the interior has been deprived of all the benefit of light. The building has, on the whole, been regarded as a serious movement of the imbecility of the Council, and is a striking instance of the impropriety of placing the administration of a public estate in the hands of a few Clergymen, whose professional avocations of business is the most trivial of their duties. The erection of this building was superintended by one of those degraded Jobs "without which the Colonial mess is not made" their schemes as ridiculous as palpable. For the purpose of evincing their partiality towards a favourite contractor the tenders were not accepted till nearly three years after they were made. When the tenders were made, labour and materials were high. When the work was contracted, the price of labour had greatly fallen, and although it was known that the building could have been finished for less or three thousand pounds less than the price originally tendered, the tenders were then accepted and the contract entered into. An architect was employed to superintend the erection of this building, and his services have been retained for an indefinite period, at a salary of £200. The labours of this individual, who may be regarded as a permanent officer of the Establishment seem to be principally dedicated to the amusement of the Vice-President, and to the contemplation of his whole house with professional plans of buildings, for the erection of which there is fortunately neither necessity nor means. The other buildings upon which the funds of the University have been fortunately squandered, and wrongly so, are an Episcopal Chapel and an Anatomical Theatre. The chapel was found to by the Vice President when he was Secretary of the Council was a sheepcote. Although one was intended for sheepcote by accommodation the sum of £506 was devoted to that equal purpose. The Anatomical Theatre cost about £300 and was in essential to the superintendence of the Vice-President, whose retreat it gave to, though must to all beings for a longer until it seems in danger, undisturbed by his own ignorance, over every department. The object of this building was to secure the domestic accommodation of his Servant in the University and his co-operation in the schemes of his patrons. The Theatre was also also wholly unnecessary and a plan and purpose were carried into effect a object lost to be so those of the Medical Faculty.

ENDOWED IN MASONRY.—The principal feature under this head is the Bursar's Office. The statement of the annual expense of this department is as follows:—

	£	s	d
Bursar's Salary	400	0	0
First Clerk	70	0	0
Second do.	150	0	0
Extra do.	120	17	0
Messenger	30	0	0
Sundries,	598	2	0
	£1360	0	0

That estimate was made for the years preceding 1848 the expense has since

considerably increased. This Establishment has all along been a nest of petty chicanery. The employment of Clerks has been chosen solely or exclusively by the clerical order of mind. Writs issued have put an end to the Establishment could at once be reduced. Although the Bursar enjoys other perquisites from his position in the Council, yet his salary as Bursar ought to be large, and no pretty sufficient or useful for the maintenance of the Establishment. Under the existing system of management, which entails perhaps to a greater extent at the present moment, than at any former period of the management, all the important business of the University is transacted at the Bursar's Office, without any consultation with the Council. The Bursar is a private consideration with one of his patrons in the Council, may in one hour dispose of every sum of the endowment, and it is sometimes that four called have been fortunately able to ascertain even before the value of the funds. The real power of the Bursar is entirely worthless, but it is mixed into complicated within combined with the advice and instructions of the President and Vice-President. It is an important fact, that in various periods of the trust, the Bursar has kept public accounts between the funds of the University and private members of the Council, which accounts have not been printed to the other Trustees. His re-election and re-operation have been purchased by petty bribes at the expense of the trust. He has been allowed £40 for the superintendence of the Hall Dinners, with a salary of £400 and for the purpose of giving him a free house to which he had no claim, the Medical Faculty has been deprived of Lecture Rooms and other accommodation in the University. Perhaps the most corrupt feature in the management is the Bursar's Office. Under colour of a pretended discretionary power, which would be illegal if it did exist, but which in all cases at the service of two members of the Council every species of petty annoyance is exercised over the University by the most contemptible means, indeed so far can an upon a system of patronage. The office expenses of management have increased in a ruinous extent since the opening of the University. The Vice-President's expenses alone for letters and franks a formula burdens the University with the annual sum of about £1000. The aggregate fees of the Students, during the first and second Terms amounted to about £3500. This sum never exceeded the amount paid to the Bursar as Steward and was exclusive of attendance &c. which yield the Bursar other emoluments. The expense of keeping an report the examinations and grounds amounts to £350 annually When the Monastic Establishment shall be placed in operation the multitudinous of an efficient police may be expected a be a formidable item in the expenditures.

Testimonies.—One of the most flagrant instances of violation of trust of which even the College Council have been guilty occurred in the a mess sum to the Cathedral Church of Tuscana. The unwarranted history at this transaction is as follows.—The Church windows had no other resources wholly exhausted and being without the means of raising an additional shilling on the necessity of the Church applied to their friends a the College Council for an advance of £4000. Each an overture was of course illegal from the funds of a trust, but he Collage Council being virtual y composed of Episcopalian Clergymen in affairs of the

Collateral were to claim portion of such interest. Previous to this application the greater part of the available assets of the University had been invested in Government Debentures bearing interest at six per cent: but on the decline in Income following on the Cathedral's limited borrowing with three per centerie, the means of propping up declining fortunes were rapidly discovered and most unscrupulously used. The requisite amount of Debentures was furnished from the archives of the University to the hands of the Chancellor's clerk and on the transaction was required as a mere accommodation to friends legal security was neither asked nor obtained. But the necessity of this fraudulent transaction is to be found in its connection with a collateral circumstance. *On the very day that the Debentures were transferred to the Chancellor's clerk, a negotiation was opened and completed by the College Council with that of the City Banks for a loan of £40,000, to meet the pressing exigencies of the University.*

Income on the Endowment.—In the Returns submitted to Parliament, the College Council have estimated their annual income, on the 31st December, 1852, at £11,870 7s 8d. In the particulars of Income the University is credited with the interest on Government Debentures to the amount of £36,000, but upwards of £16,000 of Debentures have since been disposed of. There can be no doubt that, under a proper system of management, the Endowment would yield the sum claimed: and that the Income still in existence could be preserved, by increasing values would keep pace with the diminished resources of the estate. The evidence of the Council has, however, been framed on a wilful misrepresentation of their true position. Arrears of rents have been allowed to accumulate to the amount of £18,000, and the inducements of purchase money have also amounted to no less a sum than £31,747. It has been the practice of the Council to allow the purchase money to remain in the hands of purchasers as long as they pay interest, and in cases where the parties were considered unlikely to require to submit to the imposition numerous reserves have been charged. As the amount of interest already amount to £18,000 some contrivance may be formed of the impossible management to which the Estate is treated. It is, indeed, necessary that an account be rendered in the way, and things the Council to set at almost any price: and the remainder of the purchase money is transferred to the depository of arrears. The gentle position of these arrears are irrecoverable but the Council credit their Income with interest on large sums, the principal itself being irrecoverable. No attempt, however is made to reduce the expenditure to the actual income—but an imaginary income is arranged by the Bursar and the hungry defrauded are cajoled by any specie and corrupt management, are led up by fresh attacks upon the capital. This system is explained in a note to be in currency—In pro ding for the annual expenses of the University are insert would outstanding upon the part on of those receipts (of proceeds of land sold interest and rents) which shall be reserved as capital as he often found, are used as surplus our expenditure to the amount of rent and interest actually received for sums the made to which we sell property by instalments, the interest on which is recoverable only as the instalments become due, and no annuity upon the purchase

money outstandings we may safely expend part of the early surpluses received, in anticipation of the interest accruing on the new claims' investments, which, when they become due, yield their accumulated interest." The introduction of this note was intended to give an air of plausibility to a system of expenditure. No attempt has ever been made by the Council to adapt their expenditure to the annual of real and interest either already received or anticipated. The expenditure has invariably been also reference to the available capital in the hands of the Bursary; and when the same pressure experience is to be sustained, a very few years will be sufficient to swallow up the Endowment.

The existing Constitution of the Council is at every respect favourable to the designs of certain of its members. Owing to the absence of the Law officers of the Crown, the management of the University has fallen into the almost unconditional possession of a few Clergymen, who, undoubtedly ignorant of their values, are unblessedly disposing of lands in various parts of the Province, and are leasing the Estate by contracts for buildings and imaginary improvements, to meet which the available capital is drawn. Some of the remaining claims in payment of the Endowment have been shut out, the rashness and extravagance of the Council have known no bounds,—they have not concealed their design of upsetting the Endowment before Parliamentary interference can be effected,—and there is every reason to fear that their authorities designs may, to a certain extent, be successfully executed, unless measures are immediately adopted to put a stop to their reckless proceedings.

Nor—as was our intention to have stated our reasons our intentions upon the proceedings of the new Council which has been formed under the Charter—is it, for private reasons, we abstain from doing so at present. The short period, however, that has elapsed since the formation of the Council has been sufficient to demonstrate the correctness of the whole of its recent proceedings, more likely to be made the subject of parliamentary investigation, as stated in our last No. of the "Church Times."

What the result of the above has been, we feel ashamed that we have still to record. Everything has been carried by the majority of the Council.

In his remarks last it is clear that it is more to the new Council to state that the prolongation of the old management has not involved a loss to the new without a reference and honourable expression. It is indeed a supreme thing in the present state of what has been termed private and from Religious and Political Animosities, to

to the Chancellor that such a proceeding called for the signal punishment of the parliament, become, forsooth, it was unprecedented! Good heavens, Dr. McCall! the charter of our civil privileges! With what utter disadherence the shrewd lawyer at Bacon Hall must look at circumstances who seems to have ever had an over-like propensity to the dark arts of finessing—and who, "knowing both sorts of matter, and neither of them, did out of his great quantity of talent, and habitual injustice of wit, upon subjects of learning, undertake for the liberties of Israel and were free of the substance or credit."[1] If the leaders of Presbyter parsons will peruse the Investigation, Dr. McCall will find unanswerable reasons for an American Parliament to the Legislature even as the Irishmen where he affects to admire endeavor the society to reconstruct. We shall simply add with at least one point of similarity.

[1] Art March 1854, Petitions to look House of the English Legislature were presented by Earl Grey and the Hon. Spring Rice respectively, both gentlemen members of the Senate of Cambridge, all of whom were members of the Established Church of England. They were signed by two Heads of Houses, by ten Professors, (among whom were some of the most eminent members of the University of Cambridge,) and by fifteen Tutors of the different Colleges. In reference to the character of the persons by whom the Petition was signed, it was stated that all, or first, among the Professors, were Alex. Hey, Sedgwick, Lee, Hewett, Talbingo, and Shilleto, the last of whom had the honor to have published Euripides; as an exposer, and by Cambridge men thought as a triumphant and unanswerable defender of the Cambridge system, and pointing out the inconsistency in which the Tutors were Messrs. Peacock, Bowstead, and Thirlwall—the latter one of the most distinguished scholars in Europe. The Petitions in fact embraced the great majority of the intellect and talents of the University. They complained generally of the oppressive system of Cambridge, and which they considered irremediable, and were prepared to the Legislature of Monopoly and Corruption in the University. They complained of the Senate of the University as being but limited and unfair representatives of the Established Church and to the University itself as not improved, and in some cases retarded in its progress of mental enlightenment; policy was even so devised by the members of same as not to require, from one to the same, any separation from the articles of compromise or the principles of dogma. In consistently with these sentiments, they would no more have a Nonconformist a Senator than to elect a Jew Rabbi like a Bishop of Cambridge, one from an a free country is insane as solely because he nominates to consensus as not at all changes in which a consensus was to be from Christian principles.—Mount Sinai. The Petitioners then proceeded to state, that, knowing the character with they found might be to have subjected their subject to the evil misery, they applied to your Honorable a House the expediency to abrogating, by legislative enactment, every obligation now existing from members of the University, as to their declaring, whether of Saints or Master or Doctor in Arts, Law or Physic." The Petitioners concluded by praying that the grace of law Parliament be granted, the most advisable to good academical education sought be intended to many students may who are now for that purpose excluded from a full participation in them, though they include in the benefits of such a Country as your Petitioners are members. And that a be taken into consideration the best means of the Petitioners, that any, hereby being moved to suppress that as to the Colleges and Corporation of the United Kingdom as a separate and Trust Act, and any and Charities of all descriptions to make a Parliament, and to such a of grace and honour they in all to both schools, and that the only a people The should be enhanced it the University consequently to undertake as a privileges a to degrees shown entertained." Such was the prayer prayed for as Petitions to be Legislature, emanating from the very bosom of it. The Army of Church the—from the time of the Queen who made it an University and one—eminently that prejudiced the religious usefulness and liberality Universities, and intimate were deeply pledged to a deeply interested in the reform of the Universities, and responsible for the due and extension of his alliance and yet a measured by two of the Professors of the Anglo College, Peterhall, simply representing that

political changes in the Province had rendered the Charter in some respects inoperative, as made the Subject of a recent complaint to the Chancellor, by a small, but seditious, Vice-President, who would not suffer the Chair to be left disengaged on this constitutional proceeding this manner of contempt intimidated. Was a serious game to a malignant expression by the Duke of Newcastle, Chancellor of the University, when the Chancellor Fellow was presented to the House of Lords? Was it not that he came Chancellor required a subsequent Petition to the Legislative from some of the Undergraduates of Cambridge? The memorable words which the Royal Duke used on the latter occasion should never appear in the house of the Province. John McCaul. "Young man," said his Royal Highness, to one of the Undergraduates who waited on him privately with the Petition, "I congratulate you on obtaining a Petition to the Legislature; but I cannot refuse—although as I do the religious feeling that has animated a Reformed Undergraduate—to grant the prayer and with which I am urged, and the petitioners of the same. I have been on Undergraduate myself, and we have proved the Reformed Faith and Protestant Religion, and present your Petition." In similar circumstances, McCaul accurately suggests to the Chancellor the dismissal of two old colleagues, because their Petitions were "unprecedented."

If Sir John Colborne had pressed for a change in the constitution of the University, as was done in the Lower Province, the Bishop of the High Church party might have been justly alarmed; or if his motive could have been considered to include the wishes of the Church people at large, or a majority, if any power had been intended, either on the Chancellor or Council, to grant the prayer of the petition, a Vice-President of the present political grade in a constitutional point might have been permitted the offensive pretentiousness to be contemptuous, on their passing, and the Legislature and Bishop would have had a simple, and a just, and to be considered the practice of those institutions of whose existence government took its notice to be absolutely approved, he could never have intended the assertion that the petitions was "unprecedented." From an earliest times, objections have been made by members of the British Universities to the petitions which proceeded from them, and the right of immemorial custom have brought to an end measured terms. In Act of Parliament, 31 Geo. III. c. 31, sec. 32, the Universities are made at their request to cease. The President of an Act passed in the Reign of Edward VI., very nearly begins with declaring "that the Statutes of the University are obscure, as well as ill, and semi-barbarous and that divers times unintelligible and fashioned more recent as to amend some of the errors, and to be part of the new learning have become recent." (See Dyer's Academic Diary.) The Vice-President at King's College Toronto, may not in such experience as these to the Chancellor and an unprecedented proceeding.

But the real ground of complaint lay in the honourable separation given by them gentlemen to the dangerous and pretentious principle of maintaining which had made the University of King's College a by-word in the Provinces. Dr McCaul found it impossible to accept the re-appointment in January's Statute for the Vice President's reappointment in the absence of the other Professors and perhaps was it not usual would advise the re-appointment of Professor Croft? was generally [illegible] Statutably made to prevail on the other members of the Council to grant it a favour and to sanction the appointment; but the proposal was not generally approved by all except the Vice President, who evidently meant the adoption of the plan to suit the interest of the [illegible]

During the Chancellorship of Sir Charles Bagot, a Resolution of the Council Dinner was read before him on the Petition by Dr McCaul and which was profoundly framed a reference to a statement of the income of the University by the Resolution Dr. McCaul assumed his own services, as Professor at £400—while the rate of £200 was considered as the salary of Vice-President. Sir Charles Bagot ordered the salary of Vice-President to £300 and on the 31st of the Professorship to £500—then meeting in another from Dr McCaul's own choice of his experience. A Statute was proposed by the Charles Bagot to annul such appointments proposed, and passed [illegible] to the Council. This statute was reinvented and annulled—the Chancellor's exercise of power having offered a favourable opportunity for defeating the pretensions [illegible] of Sir Charles Metcalfe, a few his son was framed by the party in Toronto, in which, taking advantage of the addition made by Sir Charles Bagot to Dr McCaul's salary, as a

Professor, the sum stated was £300, and also taking advantage of Sir Charles Metcalfe's ignorance of the former Chancellor's arrangement of the salary of Vice President, the sum named was £1200. Will Sir Charles Metcalfe favour us with an explanation of the above paper?

But as the original Schedule of Estimates had been effectually confounded in a newer analysis of the income, in adding £1,800 to one part of the expenditure, it became necessary to subtract a like amount from another, and therefore Dr. McCaul ingeniously and ingenuously reduced the salary of the Professor of Law to £400—being £200 less than the salary of the Junior Clerk in the Bursar's Office. With Dr. McCaul forty evenings are twice whole the public attach to the salaries, emoluments and efficiency of the Professor of Law and the Professor of Literature respectively!

The Finance of Sir Charles Bagot, which was characterized by unexpected and cancelled, proclaimed the salaries of the Medical Professors on a view of the duties attached to the corresponding Professors in the most eminent Medical Schools in Great Britain: and in accordance therewith the first Chancellor pledged himself to those salaries when the appointments were made. The Statute enactment to the Charter likewise was framed with the view of adjusting the expenditure to the income—the sum proposed by the Council, as a mention to one Professor of £200, and to another of £150 merely. What Dr. McCaul requires for the extra-emolument of the appointment of Vice-Provost of Western Medicine? Will he explain the intellectual exercise to enable the Masters of Upper College Hall to be present at examinations in Medicine at the Clinic—alias, with a view to the union of the offices of Vice-President and Principal—his assistance with the Statutes of the late Chancellor—the preparation of the present Statute and concealment of its contents—the obtaining the promise of a Statute to add £1,800 to his emoluments, by getting the person through whose instrumentality he attempted to secure the personal approbation of the Minister—the zeal where he will strong adhered to Church—Sacred over Upper Canada College, in relation of his own emolument as Sir Charles Bagot, that he was ownership of the appointment? Those and many other use of a Dr. Hume secure emolument will undoubtedly have to be answered by Dr. McCaul before the proper tribunal. The time has long gone past when a person in his position could be permitted with impunity to usurp the personal rights of the people of Canada, so as thus them as community for his private aggrandizement.

CHAPTER VIII

THE UNIVERSITY BILL

The introduction of a Bill during the last Session of Parliament, for the more efficient establishment and satisfactory government of the Collegiate Institutions of Upper Canada, was hailed with all but an equal delight by the country. Nor was the intensity of the gratification diminished by the consolation in that same session for the more liberal government of Dalhousie had emanated from his Local Administration and had a Bill had been framed by the Attorney-General for Upper Canada—whose enlightened principles of civil and religious freedom—perfect acquaintance with the social state of the country—and natural sympathy with the the feelings and wants of his population—afforded a guarantee for its thorough adaptation to the circumstances with the and united local; for its introduction.

The objects of that Bill were to be recited in the Preamble—

Whereas it is certainly for the advancement of learning so that division of that

Province called Upper Canada, established upon principles calculated to conciliate the confidence and secure the support of all classes and denominations of the people, would, under the blessing of Divine Providence, greatly promote the best interests, religious, moral, and social, of the people at large: and whereas, with a view to supply the want of such an Institution, his late Majesty King George the Fourth was graciously pleased by Royal Charter, dated at Westminster the 15th day of March, in the Eighth Year of his Reign, to establish a College at Toronto, under the name of King's College, with the rights and privileges of an University and otherwise to endow the same with certain of the waste lands of the Crown and whereas, with a like view, certain other Colleges and Collegiate Institutions have since been established, in the same division of the Province,—one at the same place, under the name of Upper Canada College conferred also out of the public lands, one at Kingston, under the name of Queen's College of Royal Foundation endowed by private means alone; another at the same place, under the name of Queen's College, or The University of Kingston, a Royal Charter endowed by the same means alone; and another at Cobourg, under the name of Victoria College, endowed by private means assisted by a Royal Charter granting to the Wesleyan Methodist College having likewise the style and privileges of Universities: and whereas the people of Upper Canada consisted of several and various denominations of Christians, to the purchase of such an University would contribute, for the right to extract the benefits of an University Education, and to maintain the true rights and privileges of all, without reference to the religious opinions of any, by leaving the teaching of Divinity and the education of the Clergy and Ministers of Religion to Colleges for students of particular denominations of Christians, endowed by several Charters, in connection with the different Churches, or other religious bodies contemplated by the 31st Clause, as dedicated to such Churches respectively and whereas, by an act of the Provincial Parliament passed in the Seventh Year of the Reign of his late Majesty King William the Fourth, The Charter of the said Protestant (sic) College was in certain points amended and amended in order that the Provisions in the said Act set out to meet the desires and circumstances of the Colony and whereas for the more complete accomplishment of these objects, it is expedient to repeal the said Act and to substitute another in its stead for the more effectual purpose as near as may be in separate and more efficient institutes of the Collegiate and University system of the said Act as to and whereas it is by law the same objects, also named in to alter and amend several particulars certain other Acts of Parliament in the Province referring to return of his said Colleges and Collegiate Institutes since respectively acquire such Powers and Privileges and the said University and to transfer and vest in such University the sole power of conferring Degrees in the several Arts and Faculties in Upper Canada and to make such other provisions for the effectual establishment and satisfactory government of the said University as is therein enacted, &c."

It was of course to be noted that a measure subversive of the dangers of the High Church party in reference to the University should meet with considerable opposition; but, singularly enough that opposition was confined to a minority of the College Council and with the exception of a Memorial to the Lord Bishop by the Reverend Bishop of Toronto and an argument by Counsel at the bar of the House, in behalf of the Bishop and two of his colleagues no opposition, not a murmur of it rose from the principle of the Bill presented from any part of the Province. And let me in no singular remark which abruptly terminated the Session the Bill would unquestionably have become the law of the land.

The argument of the Rev. W. H. Draper at the bar of the Legislative Assembly

claims absolute consideration, not only on account of the eloquence and high legal attainments of the speaker, but on enclosing all the reasons that could be effectively urged in support of the claims of the party whom he represented. It would be supererogatory to follow the learned counsel in his objections to the details of a measure no longer before the country, but as there can be no comparison of the principle contained in the University Bill, in whatever shape it may appear to commend to the Legislature, it may not be improper to elucidate that historical sketch with an examination of those constitutional questions affecting the prerogative of the Crown and the legislative functions and powers of the Provincial Parliament which formed so considerable a portion of Mr. Draper's argument.

As a question of constitutional law, the jurisdiction of Parliament in reference to the University Bill must necessarily be argued on the assumption that the powers and functions of the Provincial Parliament are identical and co-extensive with those of the British Legislature in matters affecting British interests. For if this position be not conceded, the analogies and precedents, which Mr Draper has drawn and adduced from British treaties, must fail in their application, where spiritual rights for Colonial Government exist.

Assuming then that the Canadian Legislature has been endowed with powers, or rather that there are reserved in its constitution powers, corresponding with those exercised by the Legislature of England, what analogies and precedents are furnished by British practice for the leading propositions which Mr Draper has laboured to establish? First, that the Legislature cannot, without infringing on the prerogative of the Crown, erect a new Corporation with University powers and privileges: and second, that it cannot exercise, as an act of will and power unaccompanied by consent or principle) depute a Corporation of the rights and [illegible] which [illegible] legally granted to it in every way but one with them is the consent of such Corporation.

The first of these propositions proceeds on an hypothesis—an assumed principle which Mr. Draper has not attempted to prove—that the University Bill asks the Provincial Parliament to exercise a creative power by calling into existence a new University, with all the privileges, immunities, and rights, which usually belong to such corporations But the bill assumes no such power. It treats the University as pre-existent and mutely to expression under a Royal Charter, and it not only forbears to grant new or fresh or former powers but it actually gives such privileges and franchises further protection and extension by adopting them to an enlarged sphere of action. The Bill contains neither the destruction of the University nor the creation of another—it merely provides for a union of the University now legally which has been previously granted by the Crown to separate Corporations, and, by the union and co-operation of powers and privileges, it attempts to effect greater local and national usefulness, whose vital principle is the existence of interests. If therefore there be any privilege peculiar to the existing charter or the prerogative of the Crown alone to confer—privileges

which are unknown to literate and independent of Parliamentary aid—their constitutional source has been amply recognised by the Bill.

But no such privileges in relation to Universities are known to exist. Mr. Hearn has throughout his argument laboured to throw into the shade the creative power of Parliament in creating corporations, and thus by skilfully taking advantage of the obscurity in which the origin of the ancient English Universities is involved, he has attempted to draw an imaginary distinction between the corporate character of literary and of other civil corporations, for which no constitutional or legal analogy exists.

That the crown has the power to erect corporations, and to endow them with privileges and franchises is undoubtedly correct—as Sir Edward, and not the law of England, has asserted the Crown with the peculiar prerogative. Lord Coke has laid down that, "corporations are two and be ordained by two manner of ways, viz., by prescription, by letters patent, or *by act of Parliament*."—(4 Inst. 200.) and every constitutional writer since has more or less adopted the same enumeration. Mr. Justice Blackstone does indeed state, as the passage cited by Mr. Hearn, rather recognising the principle as contended by Lord Coke, but in terms still less favourable to an absolute or peculiar prerogative, for he merely requires as an ingredient the King's consent, either express or implied, that "it is observable, till of late years, most of those statutes which are usually cited as having created corporations, do either confirm such as have been before erected by the King, as in the case of the College of Physicians erected by Charter, 10 Hen. VIII., which Charter was afterwards confirmed in Parliament, or they permit the King to erect a corporation *de futuro* with such and such powers, as in the case of the Bank of England, and the society of the British Fishery. So that the immediate creative act was usually performed by the King alone, in virtue of his royal prerogative."—(1 Com. 473.) But the passage so thus partially quoted by Mr. Hearn contains nearly as historical and not a legal qualification of the principle laid down—in the one part of the sentence which the writer Cherished has omitted to quote, that "*by Act of Parliament* in which the Royal assent is a necessary ingredient, corporations may undoubtedly be created. And the reasons that *till of late years* the immediate creative act was usually performed by the King alone in virtue of the prerogative as to be found in the circumstance that in early times the nature and limits of Parliamentary jurisdiction as applicable to an infinite variety of circumstances, had not been defined with perfect precision and that the facility of obtaining a Royal Charter was comparatively greater than by Statute. On the other hand, before the sixteenth century no prerogative was supposed to attach to every public case and was accordingly exercised with an arbitrary disregard of those constitutional restrictions which render it wholesome to public liberty. When Blackstone wrote, the powers of Parliament and the prerogatives of the Crown were both equally understood and moved right even than—we y orthodox Judge"—as he is called by Gibbon on account of his leaning to each every power—claims for Parliament the *general* attributes of the powers which, *till of late years* was so nearly exercised by the Crown. And since the passage

vest within the greater number of new Corporations here created their privileges by Parliamentary Statute, on which the "Royal assent is a necessary ingredient."

To withdraw the Universities from the ordinary operations of the law, the learned counsel finds it necessary to resort to an imaginary distinction between collegiate and other corporations. But the law knows no such distinction among Institutions in their corporate capacity. Although in early times the Universities were considered to be ecclesiastical, they are now regarded strictly as lay corporations. (Lord Mansfield in Case of University of Cambridge.) In this character they seem to partake as well of the nature of civil as ecclesiastical foundations—civil in respect of their municipality and government, and ecclesiastical in reference to the nature and administration of their Estates. In a question as to their constitutional position they must necessarily be treated as civil corporations, and in this character Mr Draper regards them.

The learned Counsel has wisely abstained from stating the specific privileges enjoyed by Universities which should exempt them from Parliamentary jurisdiction. That Parliament should exercise a control over their purposes and objects is at least as clear as its undoubted right to control other civil corporations. That Parliament has no power to create learning or talent, may be applied with equal truth to the prerogatives of the Crown: but that the power either of the Parliament or of the prerogative, may foster and encourage, and even threaten to remunerate and institutions for the promotion of learning is a matter of every day experience and practice.

Now, the only privilege which distinguishes Universities from other literary and scientific foundations, is the power with which they are endowed of conferring degrees, which, it may be said, arise from the Crown, as the fountain of honour. Assuming then that the University Bill really were the fount of erecting a new corporation with University powers and privileges,—in this power of conferring degrees alone rests all the difficulty.

It is very obvious that the assent of the Crown being a necessary ingredient in every legislative act—that assent obtained the powers which would flow from the single exercise of the prerogative must form a part of the privileges which it in the intention of the legislature to confer. But, though the power of granting degrees may be also said to flow originally from the Crown, as by courtesy the fountain of honour, yet this power by no means forms a part of the prerogative. It may be delegated to a subject—it may proceed from foreign authority—it may not be spontaneously done, or it may be incident to the subject matter of the institution which acquires the power. In the argument of Mr Attorney-General Yorke in the case of *Dr Bentley* he observed, "If the Crown creates a University the power of conferring degrees is incident to the grant. Some old degrees the Universities have abrogated some now they have created." Now the general rule of law undoubtedly is, that where a subject matter is granted we oh has legal accretion belonging to the matter is must follow the subject granted. The power of conferring degrees was therefore conferred on the Canadian Institutions when the endowment was given and the Corporation

enacted by Royal Charter. No parliamentary modification, which does not by express words deprive the Institution of that power can affect its legitimate exercise; and the University Bill leaves this privilege unimpaired.

But even on the case of the English Universities, it cannot be maintained that the power of conferring degrees is, in every instance, derived originally from the Crown; and as the application of Mr. Draper's historical argument mainly relies for its strength on the elasticity in which the unwritten history of these institutions is regarded, it may be proper to furnish somewhat more minutely here than might have been desirable for him to have done.

In reference to those early origins and peculiar privileges, the Universities of England can scarcely be said to have come within the ordinary operations of English law. The most bold and the thing meant were of European acceptance and ground, and accordingly many of their privileges—as that of the Vice Chancellor's Court, which is governed by the principles of the civil law—could only be enforced, or at all events must have been confirmed by statute. Inasmuch as the Crown could neither confer nor confirm privileges which were inconsistent with the principles of the common law. The privileges attached to the Universities of Oxford and Cambridge seem to have been similar to those held by the Universities of Paris, Bologna, Salamanca, Louvaine, and other ancient continental Universities. Their origin took place in circumstances common to them all, and their perfect similarity in early times, raises a strong presumption that they were all created in the same manner and by the same power.

The oldest Universities in Europe arose spontaneously during the twelfth and thirteenth centuries, and their rise was still little farther back than they were all of ecclesiastical origin. The fame of ancient teachers, such as Irnerius at Bologna, and Abelard at Paris, attracted vast crowds of learners or students to the towns where the Schools were established. At first the communities which these Scholars composed were merely of a feudal kind; they sought and had *concessa* for their peculiar public rights. Their growing importance and the vast concourse of Students from all quarters at such a time it necessarily led them to be possessed of monopoly powers of foreigners and internal government which were usually conferred by the local authorities and the Papal and Royal powers would appear to have soon afterwards succeeded to privileges which they had in the first place acquired from more local authority. Grants had been executed in their favour by popes and charitable persons in the first point of *Statuimus* subject Scholars, and these Grants were, with the privileges which the Universities had successively acquired confirmed sometimes by Royal Charter, but more frequently by Bull. The Pope ruled, it has accepted to it small the right of vesting them with all their privileges and powers to the Reformation, every University in Europe conferred degrees in all the Faculties by authority derived from a Papal Bull. In after that event the Universities retained to themselves the powers of creating degrees. The University of Paris, as well as those of Oxford and Cambridge obtained at first only the lay Faculty of Arts the

Families of Royalty, Canon Law, and Medicine, were afterwards assumed by themselves.

If then the Universities of England have the power of creating or changing degrees of pleasure, what privileges exist which it is the peculiar prerogative of the Crown to create? Their civil law jurisdiction could only be exercised under the authority of statute, as it then was, and has been confirmed by the Crown alone, it would have been unnecessary to make a new law, which the Crown, as one branch of the Legislature, cannot do without the aid of an Act of Parliament, and again there right to the enjoyment of their property may have been, and actually was re-granted by Royal grants or by prescription.

It is certain that the greater part of the property held by the English Universities was acquired from individuals, and in some instances the heirs of the founders, notwithstanding their Royal confirmation, still possess a visitorial power by virtue of the common law. Both at Oxford and Cambridge these establishments originally consisted of two distinct bodies, namely the Universities and the Colleges. The former was regarded as founded and privileged by public authority for the general benefit, while the latter were founded and privileged by private benefactions for the support of certain learned individuals. The University proper existed prior to the Colleges, the former having been instituted for the purposes of education, and the latter principally for interest and habitation. At Oxford and Cambridge at present the University may be said to be in abeyance, or at least to exist only through the Colleges and this fact has afforded ground for argument in the High Church party in England against the supremacy of Parliament, that the Colleges being the ultimate powers to their incorporate members, the Legislature cannot interfere with their private property without a subversion of the constitution. But a resistance in the University can only be exhausted with a person as a trustee in one of the Colleges, the endowments of the University and the new powers of the Colleges have been accomplished through an illegal suspension of some of the University privileges.

The peculiar constitution of the King and the Queen seems a very important a thing as ever, when an attempt is made to draw analogies irrecoverable to parliamentary jurisdiction over the University of King's College in Canada. In the peculiar charter of Oxford, his privileges are limited as follows:—"Those are successive rights possessed by the successors of the above named persons, by the act of parliament, which has been already cited, who however are still considered rather as companions or mates because, while we are and while we ought to be, Chief Governors by Divine to govern, as Magistrates, Our person is a companion of fraternity and citizenship, prone as Royal and human, but more as persons justly and equally. They are published formed into one corpus on the social ones of an ancient Christian, a corporation by and and has its own peculiar manners, not only regulating all its social affairs, but modifying in some degree by a great family of universities."

The argument based by the Privy Council party in England, and however supreme powerfully against that is put by Mr. King's College in Canada. In England the jurisdiction of Parliament over the Universities has no very keen, direct—its moral right to interfere with the Colleges which are private foundations has been questioned, and although a Bill for the admission of Dissenters has been passed in the House of Commons by a

That the Visitors of Colleges have restored Charters from the Crown, may be admitted, without entirely sanctioning the foundation of Oxford to Alfred, or of Cambridge to an earlier Period: as has been done by those respective partisans.* Edward I. was also a great Charter to the Universities but this was merely a recital and confirmation of the Deeds of foundation previously given by private persons—who, notwithstanding the King's Charter, retained their visitatorial powers as founders (quoad the statutes).

The power, indeed, which the Crown appears to have exercised in former times over the Universities was very considerable, and it certainly has not been questioned by constitutional authorities. In 1540 Edward VI. took down by commission several Statutes in Cambridge to alter and reform the statutes of some of the Colleges. This commission was found however not to be the King's general visitation—one which his exercising by virtue of the common law over charitable foundations where no special visitor has been appointed by the founder: or where the right of visitation, in default of heirs, devolves upon the King, as he succeeded by the Great Seal,—he proceeded strictly and was deterred from his newly asserted spiritual jurisdiction established on the ruin of the papal authority in England. The power of visitation exercised on the Crown by 25 Henry VIII was also merely of an ecclesiastical nature, and indeed was a new transference of the power that had been elsewhere and exercised before that time by the Pope as Head of the Church. In those times Universities were considered to be ecclesiastical foundations, but both the doctrine and the power have since been exploded. The Intolerance of Charles II. by Letters Mandate was the act of arbitrary deposotism which cannot be supported at the present day.

What proposal was made by Wolfius at a former period, Lord Chief Justice Holt denied the right of the Crown, to re-enact, and Lord Chief Justice Wilmot expressed an idea on a more advocate to the right of the Crown and Parliament to Put University jointly on [illegible] There long been a warm advocate for our Universities and Lord Coke put an N least, "as if for their more privileges, I was been too rigid and severe a their Charters for their in stance depends upon the activity and honor of the rulers and heads of his see, and whenever there was large majority per, Abergavenny of other obstacles, the noble cause of the Revival Learning an. It Nelson was often and in spite of every great Bishop, and the Queen herself, succeed for its recovery distinct in the House of Lords. Lord in Custody the Endowments of Universities are unalienably guaranteed, and any diversion property to inside the subject of Legislation.

* These are of the English Universities, as stated by the profound researches of Mr Malthus would appear to be asserted we have a deeper inside into that work which, unfortunately now out of Cambridge on a place of learn ing. The last act Peter, who likewise at in [illegible] 1309. John having existed time Colleges of Oxford to be founded on Cambridge, some in Revising, in order to carry on their studies. But may be longer used with some probability the very were had a a since as Henry, as Cambridge by the year on establishment of grade a on subsection on the it see. [illegible] a recognition of Universities as in 1321 (2d Henry III.) are but there in no grants of Charters to no civil authority of our we Universities.—*Malthus's Middle Ages*, Chap. 6, Part 2.

a total revocation in these cases, if they either do not like exercise, or otherwise they continue to abuse the Parliament must and ought to call them to an account of them to their own councils and attempt in reasonable manner correction from time and ignorance by some new ordinance of moderated government." Lord Mansfield, in the very case from which Mr. Dodson has quoted, admits that "the Crown did formerly exercise a power over the Universities which cannot be supported by any sound principles of law."—Rex v. University of Cambridge.)

In all instances property the Legislature has always exercised a high and special jurisdiction; and the prerogative of the Crown as of the same nature already defined by the common law as exercising in a municipal manner is not whether or in the hands of time the intentions of the founders have not been frustrated. Parliament and the Crown are alike interested with the power of erecting Corporations and giving them Charters, the only difference in the practice being in the charges effected by the Revolution—that where the power of the Crown was formerly supposed to be sufficient of itself in most all cases, the royal authority must in certain circumstances be exercised legally and constitutionally through the medium of both Houses of the Legislature. There can be no little doubt of the power of the Crown—thus constitutionally exercised—to erect and found new Corporations, whether Universities or other civil foundations, as there can be of its constitutional exercise in the alteration of such laws as have become unnecessary or inapplicable. But whenever a Charter has been confirmed or altered by the Legislature, whether that Charter was originally public or private, the power of the Crown alone is exactly and fully limited and defined—and from the death of Lord Coke—(if pleasing to certain new gods which had been made by Queen Elizabeth in the 17th century it Came the subsequent to a Parliamentary it before) to and whilst Mr. Dodson has the and and unfortunately quoted his notables yet pose—[see "the as of by of those new Charters must turn upon the acceptance of the by a true p." That learned Judge, indeed, lays it down, that the Crown alone cannot take away their rights or put their Statutes a Charters to the to their own voluntary acceptance,—as was the case between Charles I. and the University of Oxford —but it may be doubted notes learned g e u d d e n of Lord Mansfield whether the voluntary acceptance of new Charters by be it would so much to be regretted would not be tantamount to no absolution we will could on y be effected by the aid of a Parliamentary Statute

If however we are read back to modern changes—if we are referred to the wisdom and acts of our ancestors—we cannot doubt on a normal grounds that Parliament has an ap y extended the full and absolute power of re ordering by legislative enactment well the greatest and most valuable of the Universities but that the Universities of England are a just gem We are Universities supported and nourished by the of the Legislature—that the Charters p legacy and rights are secured by Acts of Pa ament —the name of has legal advantages have been confe red on them by the same means—and that the most important right value they legal y m ay—the [illegible] possessing in all [illegible] formerly belonged to the Catholics—has been confirmed by the very Universities y which

the Advocate of "the chartered rights" of King's College republicans and nonconformists. In the reigns of Henry VIII., Edward VI., Mary and Elizabeth successive legislatures had the condition of the University by commissions, and the results of each of the commissions was the alteration, by Parliamentary Statute, of the regulations and proceedings of the College constituting the University. This Statute passed in 15th Elizabeth, upon which Mr. Prosser has laid considerable stress as having been "framed by the authority of the Crown and probably also framed by the Ministers," was in fact the result of one of these commissions, and besides embodying the spirit of the Statutes *Antiquos*, or by-laws of the Universities, and of the various Acts of Parliament of the Reigns of Henry VIII., Edward VI., and Mary, which have always been regarded as the assured constitution of the Universities, was also designed to effect various disputed alterations on their constitution, and was framed not merely with the view of repairing the government, but also of regulating the appointment of the vacancies of the several Colleges. But whether it were "framed by the authority of the Crown," or "introduced by the Ministers," will probably little affect its validity at the present day.

The argument of the learned Counsel as applied to the Irish and Scottish Universities, a totally dissimilar set of legal and historical accuracy. He has passed over Trinity College, Dublin, with that brief notice that he assumed its Charter from Elizabeth; and he had no coloured facts to the history of that Institution to would have distracted from it even pregnant with analogous and precedents for the modifications proposed by the University Bill. Looking at the early history,—even so recently as 1793, an Act of Parliament was passed to establish in Trinity College three additional professorships. And in 1793, an Act was framed by Mr. Pitt and was passed by the Irish Parliament for the purpose of rendering the University to an extent which was described as subverting an "Chartered Right," and undermining its ancient constitution.

By one act Statute of this Statutes were admitted into the University of Dublin, without any grant made but the Roman Catholics before them all along excluded from the offices and honours. By the Act 33 Geo. 3 were provided in effect that Catholics considerable rights and partly excluded from the offices of Provost and Fellow. Two of these Colleges were accordingly admitted by the Act 33 Geo. 3 to Scholarships in the Foundation on a capacity which have always been open to Protestants and he has not mentioned the exception of Statute, the Provost have power to enforce and hence there and subscribed on admission to Scholarship and have thereby taken of his Creed as from signing to that honour. The Statute was however passed by a Parliament of which the Provost was a member and the Representatives of the College were acquiescing parties. So far indeed as the University was concerned there was but one objection and no opposition and his object in this made no further objection nor moral right of Professors to open to him. were excluded by the party who urged. That no Roman Catholic should [illegible] from access and any of the offices or honours. The amendment was not carried by both Houses of Parliament

—a sense of dreadful familiarity to Roman Catholic ears—and in the speech which he delivered on the occasion, he is reported to have made use of the Oriel hint that Falmouth ever saw the proclamation of the Royal Founders of the University translated by any perversion of the privileges or revenues thereof. It is to be determined to open the Universities to Catholics, as the British Minister has procure an Act of Parliament to open the English Universities, and then the letter-potion may be more readily swallowed by the infatuated and betrayed protestants of Ireland."

Mr. Dwyer has omitted any reference to the Roman Catholic College, at Maynooth, which was founded in 1795, exclusively for the use of Protestants.

Nor is the learned Counsel more fortunate in his reference to the Scottish Universities. The University of St. Andrew's was founded by Henry Wardlaw, Bishop of the Diocese, in 1411, and was confirmed by Papal Bull in 1413. The College of St. Salvador was founded by Bishop Kennedy in 1456; that of St. Mary by Archbishop James Beaton, in 1537; and that of St. Leonard, in 1572. In 1747, the Colleges of St. Salvador and St. Leonard were united by Act of Parliament.

The University of Glasgow was established in 1454, by Bull issued by Pope Nicholas V., and it is worthy of remark, issued at the request of James II. More than one Act of Parliament has been passed in reference to this University.

King's College, Old Aberdeen, was founded in 1494, by Bishop Elphinstone, Lord Chancellor of Scotland in the Reign of James III., and Lord Privy Seal in that of James IV. The King subscribed the original foundation of the College. Marischal College, New Aberdeen, was founded after the establishment of Presbyterianism in Scotland by William Earl of Marischal, and its deed of foundation was confirmed by Act of Parliament, which three months after it came down.†

The University of Edinburgh was founded by the citizens of Edinburgh in James

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* The University of St. Andrew's, 1412 Bishop Wardlaw was founded by Henry Wardlaw Bishop of the Diocese, in 1411, by Papal Bull of Benedict XIII. confirmed the Royal Charter of the same year. The University of Scotland in Bishop, and successively a Bishop and Cardinal. 1417, by Benedict XIII. by which it was made a University and a general study for all sciences. It was endowed by other Bishops from the City of which were founded by Bishop Kennedy, and other Bishops and granted to all its members an annual Bull from Rome—a privilege confirmed by his successors.

† The University of Glasgow was established in 1450, by a Bull of Pope Nicholas V. issued at the request of James II.—Authority was given for the institution of the general study of all Faculty in, and its University was empowered to grant Degrees, which should be valid throughout Christendom. In 1460, a Royal Charter was granted by James II. with an exemption from taxes and to a privilege.—Ibid.

‡ Marischal College, a New Aberdeen, which is the main to be a separate University, was founded in 1593. The Founder William Earl of Marischal started in Edinburgh to confer the Degree of Master of Arts upon Students who happened and on the deed of foundation has been confirmed by a new one Act of Parliament the College is an endowment Revenues.—Ibid

from James VI. for founding a College within the city. In 1582, an Act of Parliament was passed, ratifying the various grants, and among other things *enfranchising the University to confer Degrees*.

Mr. Dewar's reference to the Scottish Universities is not completely full. Not one of these Institutions owed its existence to Royal Charter, but they were all founded and created by private grant by Papal Bull or by Act of Parliament. All the Scottish Universities were constituted under the auspices of Episcopacy, at the time of the Reformation, as we have shown, down to the commission granted by the Long Parliament. In the course of the last century, Facilities of Residence and Law have developed themselves, and in 1826 the accumulation of inquiry was not an hoax, the result of which has been the adoption of many perfected reforms and useful alterations in these Establishments.†

† In 1561, the citizens of Edinburgh addressed a petition from James VI. for founding a College within the city; and in 1582, aided by various donations, they procured a suitable site for it. The Nunnery and Town Council were empowered to repair and build houses for the reception and habitation of professors, and the College was proceeded in upon this footing, and opened on 2nd March 1583. Various complaints having, unfortunately, arisen between the two bodies, the Town Council resolved to withdraw its support in the month of March, 1584, the King granted property, now in the College, and to the Professors and Town Council, for the benefit of the College; and in 1620, he gave a charter containing all that they had done. In 1641, an Act of Parliament was passed, ratifying the Royal Charter grant, and the erection of the College into a College for the promotion of theology, philosophy, and humanity, and granting power to George Heriot's Hospital to appoint, out of said College, two of the persons and governors in the names, viz. *the Provost and presbyterie pertaining to same College, present for the time*. On this authority the Governors of Heriot's Hospital, with The College as a body, expect, subject to the Royal rights and Town Council of Edinburgh. No control is now exercised by this body of Governors of Heriot's Town Council, nor is there a patron of a Professorship of Belles Arts Institution, and of the College of Surgeons. The College consists of a governing body of 12 Professors, of whom twelve are appointed by the Town Council, and eight are appointed by the Crown. The Professor of Agriculture is a distinguished member of the College. The remains are five are of a mixed nature, but the Town Council has a voice in it. The Senatus Academicus consists of the Principal and all the Professors. This body is not legally known in any of the original deeds, but takes upon itself to act as a body by charge. By the Universities Act of 1858, the University of Edinburgh is the Town Council, the Professors, and the Senatus Academicus. The Principal is appointed by the Crown, and the Professors by the Town Council. The Senatus Academicus is the Principal and all the Professors, and has a voice in the matter. The Senatus Academicus consists of the Principal and all the Professors, and has a voice in the matter. The Senatus Academicus consists of the Principal and all the Professors, and has a voice in the matter.

The advantage to the University of Durham, and the London University, is not merely applicable. These Universities are privileged by Royal Charter; and it is humorous to say that from this source they derive their existence. Both Universities are strictly private Establishments and on account of the liberal principles upon which they were established,—they were founded in opposition to others by the Academic people. The characters and motives of many members were misjudged and their objects misrepresented by every shape that High Church ingenuity could devise; and with the professional and political opposition of the Bishops, the passing of an Act for their Incorporation would have been a hopeless attempt. But the relations in these Universities are the strongest that can exist between the colony and the Crown. That the Crown has power to incorporate a University or other educational Institution, may be asserted without admitting as necessary the validity of the right of Parliament to do the same.

In the proceedings now had by Mr. Draper from Canadian experience unwarrantable inferences have been drawn from the facts. He says—"The University of Queen's College at Kingston is founded by Royal Charter (an Act of the Legislature enabling it having been declined.)" But the Act of the Legislature was disallowed on the application of the Trustees of Queen's College which applied to a private foundation,—not for the purpose of changing its constitution or powers—for because it had been discovered that Parliament had no right to legislate—but in order that the University might undergo a change in its nature, and that it might acquire rights and privileges which it could not obtain without the royal prerogative. Kings College, from the Legislature, was incorporated by Act of the Colonial Legislature erected into a College, and with only such powers and powers. The application for a Royal Charter in the first instance was considered by many details of the powers and functions of the College as I cannot but solely by local circumstances to which alone it was intended to apply return in a prospect of obtaining an Act of Incorporation which Local Legislature should Colonial Secretary, acting under his advice of Executive Council established in the property of a Royal Charter to the grant that the Crown might not to confer any Corporation in the Colony that it was competent to the Legislature to create." The Charter in the corporation of the Academy was in a Colonial alloy inasmuch had been given to the Colonial necessary the he Legislature was in harmony with the views of the House of Assembly.

If then the question of University Reform depends upon historical and legal precedent in Canada Legislature can scarcely hesitate to restore to those powers which have been cruelly violated in the respects of the Parliaments of England, of Ireland, and of Scotland which established in supreme majesty in the Parliament of

subjects of special interest that an inquiry should be made in the case of deserters or bankruptcies, as they are called in the Scotch Law. The Crown requires and also powers to enquire into the powers and power were given them to frame a Code of Laws and Regulations for all the Universities.

the United Kingdom of Great Britain and Ireland, and which have been expressly recognized by the Imperial Government, as existing in the Colonial Legislature, with the fullest application to the circumstances in question.

It surely cannot admit of doubt, that a power must exist in the constitution to adapt laws to the ever-varying wants and circumstances which the moral and physical elements of which society is composed are ever producing. If it be beyond the power of the Crown to interfere with an institution which has already been made the subject of parliamentary legislation, nay is defective, its corporations, and institutions irrelevant at once to meet the constitutional projection and to escape from unauthorized control? As there is a moral duty so there is an inherent power on the part of a government to make the laws of a country conducive to the happiness of its inhabitants: and no law can be properly maintained either under its object has ceased to exist, or ought, it has become positively injurious. An anomaly as portentous, as the laws which govern it must be adapted to the changes by which it is exposed.

The right of parliamentary legislation over every other branch of the constitution is recognised and granted in every page of the history of England. The attempt would merely succeed in the perpetual duty to set up former rights, legitimacy, and prerogatives against the necessities which new interests and new relations have created. If the acknowledgment was wrong from Charles I. that the Kingly prerogative is but to defend the people's liberties, it is scarcely to be denied that the people through their representatives, are the proper judges whether it should be exercised when it opposes itself. "My Lords," said Holborne in his noble defence of Hampden, "what we contend is, as the king in the politic capacity, is to him as one, and not as him in his natural capacity: and what is to him as to one the branch of the kingdom."

The question now stands to be upon the constitutional right of parliamentary control over a civil corporation in a country which has now had a transcript of the British Constitution, and among a people who have been chief authors the noble legacy of King and his history and laws. We have to turn to the case in point, with all the assurance to the Throne of illegal dangers to feel that the right of interference if ever may learn from to time be changed or limited by Act of Parliament" (3 Black. 104), nay to the assurance to all that right has been exercised, to be satisfied that when a moral necessity for change may arise, the power to effect it will be found to exist in the Legislature.

"A legislative Act" said Mr. Justice Story in a case on the Mobile case decision, on the occasion of the expiration of Mr. W. Lee from his Bishop of Connecticut by a simple resolution "a legislative Act has no relation to any rule but three two—a right process and discretionary application. If statutes it can give rights, rights where no rights existed before and it can take away rights where they were before established. For he does that binds all others, does not and cannot bind the law makes. He and he alone is above the law. The ultimate power and jurisdiction being if an amendment to exist in the Parliament, it would be

different to discover any higher or stronger obligation on the consciences of legislators than the consideration of the public benefit and interests to influence in the modifications of a public endowment, the questions that require to be satisfactorily answered, previous to parliamentary interference, are simply—Is the present system expedient? and have the Trustees discharged their trust with fidelity?

The real question then, before the people of Canada at this expediency—the moral necessity of a change in the present system. And if at a particular period of the history of Canada, when an Episcopal ascendancy was paramount on the Councils of the country, it was deemed expedient to appropriate a vast tract of magnificent endowment for ecclesiastical purposes, and to place that endowment and the direction of education exclusively under Episcopal control, will it be maintained, when the country has, from a minority of sixteen, become divided into many religious communities, each community being a the movement of period equality to civil and religious privileges, find every advantages from the endowment shall be confined to the Episcopal members of the community, who now form one of the least of the various sects—that the privileges attached to the University must be perpetuated for the sole benefit of the original class, and that new additions to civil privileges are to be refused a participation in public rights, solely on the ground that they have not yet our peculiar views implanted and recognized, or that the metropolitan refuse their consent to a participation? If the University was intended to be a National Institution, can we look at the numbers, the rank, the wealth, the character and position of all those who are studying under the present illegal system, and say that it is worthy of its name—as large and influential a portion of the community of the branches of a University education—but it is not an exception to oppose them to the feeling that there is in mind by the mass of the country to bring, certainly from the enjoyment of benefits which are open to others by the illegal requisitions of any particular Establishment. What is the proper line involved by the term of every man in religious freedom and liberty of conscience—is right which none deny—wholly to controvert but which the Trustees of King's College have dared to call up by a secret violation of the law? It is not enough to prove that the Institution is only incompatible a small part of the purposes for which it was established by law to share the property and a penalty of giving it more enlarged and national usefulness. And if we are pertinacious to the interests of the country the persons differing in their religious opinions, but agreeing on the sub-rate, should not be estranged from each other on the ground of creed—the bound of unity being those principles of tolerance and those feelings of Christian charity which a joint system of education would produce a spirit of hostility should be engendered by the influences of which they must become to be estranged from each other in their literary and scientific pursuits. Can it be expected that the youth, who have been confined during the progress of their education in the absence of their companions, to a particular Church, will be easily brought to believe, in their after years, that the Christian virtues and graces flourish and are equally if found

among Christians of all denominations! But, on the other hand, by a combined system of education—by the ties of affection and good will—which would be fostered, even the antagonist denominations of their respective Churches, which are the relics of other ages, when passion was brought into collision in the struggle for their civil rights, and for religious supremacy, would lose all the power which they would otherwise have in perpetuating that negative species of persecution, which robs people, not of life or limb, but of their peace of mind, their ease in accompany and happiness.

Nor will any sensible man suppose that a declaration by Parliament of the equal rights of all denominations to a full participation in the advantages of the Institution, must the eagerness of the case, or produce serious confidence to the Institution, or satisfy the country. Were the Associated Charter schools on the statute, and were the complaint confined to a mere statement of fact, the remedy—whether consisting in the restoration of the first purposes, or in the punishment or removal of the Trustees—might be found in an inferior Judicatory. But it must be recollected that the laws—notwithstanding the recognition of the principle of equality—were founded and framed by the party fortunate to establish and act upon that principle while the best friends of education were unrepresented in the Legislature, and that its grave and glaring defects are such as to render it an many respects useless and worthless. This law must be so framed as to prevent a corrupt administration—and when badly administered, it becomes the duty of Parliament to remedy those defects, which have exposed it to perversion. The principle of equality, as already recognized, must be guarded by practical and efficacious rules and checks, to secure its healthy operation: and it is no less the duty of the Legislature to watch, with a vigilant eye, the spirit of the age and change of circumstances in the country produced by time, and to organize a system of general laws under the safe attributes of the laws so as to protect that principle from corruption or its perversion. No does the existence of a subordinate jail misery for unless up the proper safe-guards in the laws, deprive the Parliament of its judicial adaptation to the least or most of the greatest objects. Its powers and forms are, as the supreme tribunal in the State are applicable, in all circumstances, whether in declaring the meaning of the law in genuine questions, or in going into those matters which have consisted either misconception of intention or corrupt administration.

The argument of his learned counsel assumes that in Bill proposes to interfere with and take away your ages liberties and franchises, which the Crown has solemn y granted under the great seal of the Empire." By what "privileges, liberty or franchises," was injured by the Lo vernity which was so largely extended by the Bill? No part of his corporation was charged but in name—and what is in one sentence than for a corporation to change its name and retain its powers, rights and privileges? The objects and purposes and subject matter of the corporation remained the same, but an enhancement of its advantages was prepared by the modification and adjustment of its machinery. It is

shewed in talk of disfranchising a corporation, when every one of the collegiate is clearly innocent, and every power which it holds is legally maintained.

Now, the University as a corporation, was preserved in all its dignity, and in the [illegible] possession of its privileges, liberties, and franchises. The other Colleges asked for no separate favour, no charter from the Crown—they did not even move to participate in the University privileges, for they shrunk and draw back from them—they asked no extension of their charters—no new powers which were adverse to the rights already established—all they asked, and all that the [illegible] proposed to give them, was, that their students might have the privilege of obtaining the degrees in Arts and Sciences conferred out of a public endowment, and that such endowment might be so administered that such privileges should be enjoyed without offence to the conscientious convictions. The separate Colleges in the Universities of England have been endowed and privileged by private individuals. Surely that which has been done legally in England by the piety or munificence of individuals, may be constitutionally done in Canada, without stretching, to an undue degree, the prerogative of the Sovereign.

But the argument of declamation cannot be maintained with little order of grave or effect by the person who framed and introduced the amended law which respectfully, to the fullest extent, the very point the which it is the object of the present Bill to redress more thoroughly to practice. By the act creation of the Amended Charter, Mr. Draper was a legislator, given his solemn assent to the enactment of all of the principle which Mr. Draper, now Counsel for the Trustees of King's College, asserts cannot be right. The Council of Canada, in the name of their Gods, their Queen, and their Country to condemn! Was not the sole object of the Amended Charter to deprive the Episcopal Church of the exclusive enjoyment of University [illegible] privileges, liberties, and franchises? Did it not expressly recognise the equal rights of all denominations of Christians? Christians to an unconditional participation in those privileges, liberties, and franchises—and have not the Trustees of King's College, franchises, yet assumed the people of Canada of the privileges, liberties and franchises of which Mr. Draper's own bill as framed conferred upon them? And, moreover did not Mr. Draper's Amended Statute in the fullest extent recognise the power and right of both which as an advocate he affects to repudiate? Was it that he Crown gave as an exclusive to the establishment—no—it is that the Crown invested the whole body of the Legislature to the improvement of the Charter. He will not an attempt of his Crown invest the Legislature with power and jurisdiction which are not inherent in the Crown? Must the validity of Acts of Parliament be tested by framing new grants and seeking clauses by to revoke existence of old charters been "framed by the Crown or of having been "probably introduced by the Ministers"—or of the opinion of the Crown towards the Parliament that [illegible] was potent in the Councils of a Colonial Secretary to work the charter which the Solicitor-General is supposed to produce?

But on what character do the Council of King's College appear at the Bar of

the Legislature to protect against a violation of its conditions of a public endowment? If the Council of King's College have been invested with franchises, they are of a public nature, and they as well as the endowment to which they are attached, are held in trust for the benefit of the whole community. There is an obvious distinction between private property vested in individuals as such, and property vested in individuals in the character of public Trustees, and therefore held by them only in the public behalf. There can be no more on behalf of these Trustees in their own persons, for the University was created into a Corporation purely for public purposes. How a Corporation is or can be brought into relation with unincorporated absolute interest with which they are entirely unconnected, I cannot understand. Whether they are visitors or trustees, they are the servants of the law for the purpose of holding property in trust for the public interest. If any of the Trustees are in the enjoyment of a life-rent, there is to that extent a personal right, but wherever there is merely a Trust which must be held and exercised for the public benefit.

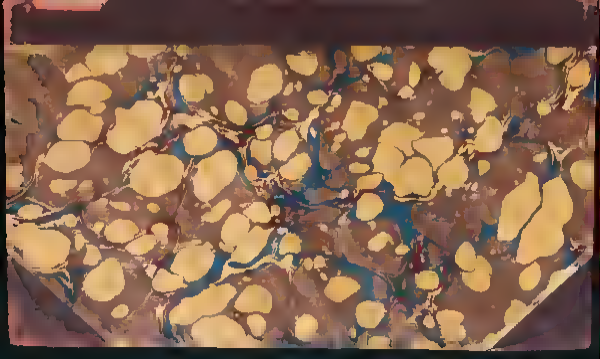
But as all Trusteeships are supposed confidences between the person, when that confidence is lost, the office of Trustee may be remitted. For the Trustee can have no personal interest in his estate in virtue of his office, and therefore the interest is solely in the parties for whose benefit it is held. In the case of Ashburton the immediately right is vested in the public, who must therefore be possessed of the power to remove their Trustees. The perception of the endowment would in fact be nothing more than the name of the Trustee, were more that endowment to be applied to other than educational purposes.

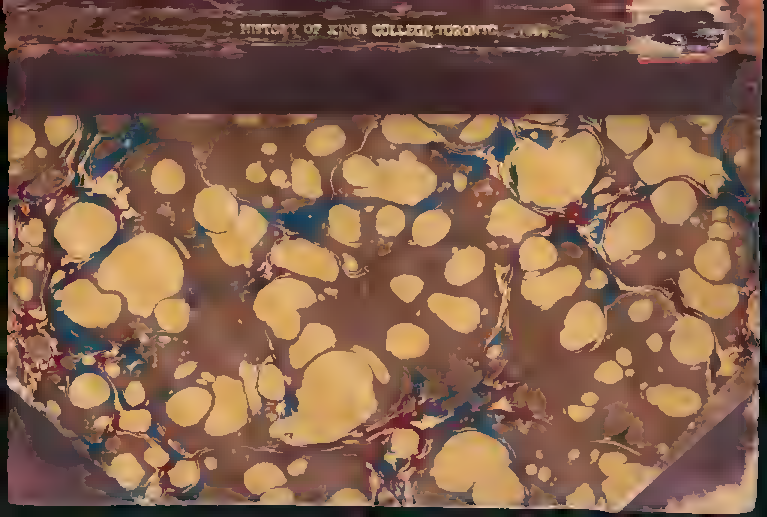
The distinction between the right to private property vested in individuals rather personally or as Trustees (or as in the case of the Collegiate Institutions of Lower Canada, which are expressly declared not for sectional, but for Roman Catholic purposes, and in that character are guaranteed by the laws of the Empire), and property vested in them in the character of part of Trustees is of always be borne out by the legislature. For instance, that the power—and is necessary to exercise the right of interference to the other hand only vests property in the seldom legislate, unless where its existence on purposes not justified by large cases, where it can be shown that every member of Parliament is practically—with some rich and corporate property it exists not a special trust—it puts its management and direction. And if the contemplated by the Parliament to recall or alter a public trust are the Trustees to be entitled to say that it is only a large one has always appeared in a public Commission not to be proper that all such matters should arise in Parliament who controversies? But does it follow that the Parliament are necessary for any such investigations and duties, many of business certain matters have not been voluntarily forward in agreement a public trust which they in a considerably perverted.

The learned Counsel must have known by analogy to the case of sharing in the hands of his Legislature with an argument which he would not have ventured to use in a less inferior Judicatory. If the abominable intolerance of the corrupt Council of King's College is to impede the progress of Parliamentary legislation what might we have been the effect of a remonstrance from the ancient Empire of Russia and

Canada on the system of English Parliamentary Reform! And if a Parliament could be found base enough to disregard the protest of the Members of Lord against all acts passed in their absence as being the acts of a Parliament no longer free, what amount of treachery will exist in the Memorial of John, by Divine Permission, Bishop of Toronto!—Alas! we fear such a the arbitrary power now vested in and exercised by our Parliaments that the validity of these acts will scarcely admit of a question, even though the whole Bench of Bishops should record their dissent—or even, as in the case of the Act of Enfranchise, the very name of the Lords Spiritual should be dropped from every part of the Bill. If the only opponents of a legislative measure are the unfaithful stewards who have betrayed their trust what better argument could they exist for the legal and moral nullity of a change!

The boroughs of trust and reservation of the law by the College Council, deprive the Rectors appointed of even the appearance of plurality. The contest is not one between the people of Canada and the vested rights of the College Council—but between a corrupt Council and the vested rights of the people. All those superfluous rights and franchises for which the Charter has so eloquently contended, were vested in the community the College Council have, in violation of the law, perverted them to private purposes; and have had the effrontery to appear at the bar of the Commons in defence of a confirmed traffic with a public endowment. Those who talk of vested rights being invaded or infringed by the University Bill, should look at the original grant—its foundation expropriation—the deceptions practised in obtaining the Charter—the long and arduous struggles by the people to reclaim their birthright—the supposed termination of those struggles in the Legislative Act restoring the endowment to its legitimate purposes—and the defeat of those purposes by parties who in reality had the capacity but the will to sacrifice the whole to the institution, to promote any public good. If the system at present in operation were carried on under the sanction of a law however surreptitious—it might in some respects be defensible as a right—but viewed as it is under a flagrant violation of positive law and on the strength of a usurped power it calls for immediate alteration as subversive of the legal constitution of the Establishment, and attached to the supremacy of the country





THE

ORIGIN, HISTORY, AND MANAGEMENT

OF THE

UNIVERSITY OF KING'S COLLEGE,

TORONTO

—THE TYRANTS MIHI NULLIS DISCRIMINA SUNTO

"WHAT WE WANT IS LIBERTY—ABSOLUTE LIBERTY—JUST AND TRUE LIBERTY—EQUAL AND IMPARTIAL LIBERTY"—*Locke.*

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TO

THE HONOURABLE ROBERT BALDWIN,

LATE ATTORNEY-GENERAL FOR UPPER CANADA,

WHOSE BILL

INTRODUCED DURING THE LAST SESSION OF PARLIAMENT

FOR OPENING THE UNIVERSITY OF KING'S COLLEGE

TO

ALL CLASSES AND DENOMINATIONS OF HER MAJESTY'S CANADIAN SUBJECTS,

ENTITLES HIM TO THE GRATITUDE

OF EVERY ENLIGHTENED FRIEND

OF

CIVIL AND RELIGIOUS FREEDOM,

THE FOLLOWING PAPERS

ARE

RESPECTFULLY INSCRIBED

INTRODUCTION.

Much as the public mind has been aroused to the urgent necessity of a thorough University Reform, it is questionable whether the country is yet in possession of all the facts upon which that necessity is based. It must be admitted that the cry of "vested rights," now gotated as it has been by the legal hypothesis of an ingenious Counsel, has had some effect in diverting attention from the circumstances which are that hypothesis in the foundation. But that the High Church party should have had the sole benefit of its cry, is more remarkable than that they should have made every use of it. For, if it can be shown that the endowment of King's College was originally granted for the purposes of general education—that the intention of the grant was to establish a public institution—and that the University has been perverted to a private and sectarian purpose, by a party at no period friendly to popular enlightenment,—there must be every reason to complain that the "vested rights" of the people have been grossly infringed—and that the monopoly of the Episcopal Church has been fraudulently acquired and unjustly maintained. The question at present before the country is not whether the exclusive claims of that Church originally founded on justice are to be invaded by reason of a public necessity, and whether rights honestly acquired, are to succumb to purposes of general utility;—but the true question at issue, is simply, whether the University as a great national institution—endowed with funds for general education—is to be opened to all classes and persuasions of her Majesty's Canadian subjects—or whether it is to be a mere apply for the exclusive benefit and advantage of the members of the Episcopal Church.

Such is the principle involved in the contest which is now going on—a contest which ought never to have been excited and which would have been safely and wisely averted if just and reasonable claims on the one side had been met in a spirit of enlightened justice and toleration on the other. In urging those claims, the people have no desire to injure the Episcopal Church. Many of them are proud to acknowledge their submission to its doctrine its discipline and government, and by none of its warmest adherents, is the cause of justice and toleration more maintained. Nor do the other denominations ask any superiority or exclusive enjoyment—all that they desire is, equality of privileges in the rent of learning and science and in pressing this equitable claim they only seek to have the University restored to the purposes of its original foundation and to have it adapted to the character and spirit of the present age which abjures monopolies and exclusions.

It cannot be denied that recent events have given energy and direction to these claims—and that the reckless conduct of the monopolists has invested with an

rapacious character the demand to have the monopoly broken up. The fact that the interests of the University have been sacrificed to schemes of personal ambition and private aggrandizement, and that a noble institution munificently endowed has been plunged into inextricable difficulties, by a system of gross and glaring mismanagement—has excited a deep and general feeling of indignation throughout the province in which the members of the Episcopal Church have largely participated.

It has now become too obvious, that the people must have some other security for their chartered rights than the parchment whose on which they are recorded—and that Legislative enactments are of little value if then execution is to be entrusted to individuals, whose object and interest are to undermine the principles upon which they are framed. It would be a mere mockery to offer any measure of delusive liberality—by which the governing power of the University was not completely changed—and by which those who have violated faith with the people and with the crown, should not be made to suffer the consequences of their dereliction.

Before King's College can exhibit a vigorous and healthy advancement, and produce the fruits of a complete and generous education—it must at once be freed from the system of despicable proselytism—which at present both fetters its energies and degrades the morals of its youth—and relieved of the management of those individuals who have so grossly perverted the objects of the institution, and who are now ruling with contumelious tenacity to the power which they have unquestionably abused.

There is every reason to believe that no attempt will be made by the High Church party to defeat the principle of the University Bill by bribing the leading sects into silence But to any such unprincipled scheme which would sacrifice the permanent interests of the country to the temporary and pecuniary advantage of particular sects, the people of Canada will assuredly offer the most unconquerable opposition Full, free and unreserved participation in the benefits to be derived from the University, as the BIRTH RIGHT of every individual in this country to whatever sect he may belong; and if any man shall be found base enough to sell the civil and religious privileges of the Canadian people, which are the property neither of sect nor of party for a sectarian or personal advantage he justly will be visited with the execrations of the country and of posterity and will the contempt of the party who may purchase his degradation.

The great feature of the University Bill was its avowed hostility to all sectarian monopoly Its object was to make the University a general and NATIONAL INSTITUTION:—an institution in which the youth of all classes and persuasions might freely mingle, and where, by being combined in their amusements as well as in their studies and pursuits, they might be permanently united in the bonds of friendship and good feeling:—an institution in which might be nurtured and developed those generous feelings and affections which would mitigate the burning animosities that the conflict of opposite interests might afterwards engender, and which would divest future opposition of its acrimony and its bitterness

It is time that this great subject should be viewed apart from all sectarian interests, and that it should be contemplated exclusively in its important bearing on the destinies of this Province. In a country so divided by religious opinions, and where the influence and intelligence of the different sects are so nearly balanced, it is of the highest importance that its public institutions should be sufficiently comprehensive to permit of and to encourage free and unrestricted intercourse between the classes. And where can such intercourse and communion be so happily and so completely effected as within the walls of a University where all denominations of Christians would mingle and be educated under one general system: and where by associating together at the most interesting season of life they might lay the foundations of future intercourse and mutual good will, so essential to the well-being of all society: and which are by no means incompatible with differences either in religious faith or political opinion? By such an amalgamation of classes in the combined education of the Canadian youth, we might expect to see the asperities of religious and political differences softened down—the lines of division gradually obliterated—prejudices abated and adverse feelings reconciled.

The grasping conduct of the High Church party has indeed perplexed this subject with considerations extrinsic of its own merits and on none of the important interests of this country has the baneful influence of that party operated to a more injurious degree, than on the progress of general Education and the successful establishment of the University. It is abundantly evident that if King's College be permitted to retain the sectarian and exclusive character which has from infancy impressed on it, and if the other denominations are excluded from a participation in its benefits—whether by their own self-abasement or by the powerful opposition of unscrupulous foes—the various sects will either renew their exertions to obtain the same benefits as other establishments instituted in conformity with their own opinions, or large numbers of the youth of the Province will be driven for their education to foreign Seminaries. But will the country submit to a compromise which will involve the necessity and danger of a separate education for each section of its varied population; which will array them in a hostile attitude one against another; each thinking the other an individual with whom it would be unsafe to associate; the one claiming a superiority to which he is not entitled, the other struggling and resisting under an undeserved inferiority? And has the country generally no interest in seeing that its youth are educated within its own territories, and in taking care that their instruction is not such as may tend to alienate from its institutions those in whose individual genius and integrity it may repose confidence in the hour of difficulty and danger?

Let not the party who would offer such a compromise imagine that the acceptance of their unprincipled bribes by any of the sectarian leaders would set this question finally at rest; for even should the present generation basely barter its rights, posterity will rise to reclaim them and while a remnant of the endowment is perverted to a sectarian purpose the struggle for equality will be perseveringly maintained. The purchase of temporary repose would be a transient delusion,

restored demands would be made upon the endowment—such successive demand with as much justice as the first and the institution would only be refused from assaults when participation in its benefits was no longer an object of desire.

No compromise—no fraudulent settlement nor base bartering of rights, will terminate the struggle for principle or diminish the resistance to a sectarian ascendancy That resistance will not cease till the portals of the University shall be thrown open, and all classes and denominations shall in the words of Locke have "LIBERTY—ABSOLUTE LIBERTY—JUST AND TRUE LIBERTY—EQUAL AND IMPARTIAL LIBERTY"

CHAPTER 2.

THE ORIGINAL GRANT

The first public movement in Upper Canada, towards obtaining a provision for educational purposes, was made in 1797, when the Legislature Council and House of Assembly concurred in a joint Address to King George III. imploring that his Majesty would be graciously pleased to direct his Government in the Province to appropriate a certain portion of the waste lands of the Crown, as a fund for the establishment and support of a respectable Grammar School, in each District thereof, and also a College, or University for the instruction of youth in the different branches of liberal knowledge." To this address a favourable answer was transmitted in a despatch from the Duke of Portland, to the Honourable Peter Russell then at the head of the Local Government, in which his Grace communicated his Majesty's "most gracious intention to comply with the wishes of the Legislature of his Province of Upper Canada, in such manner as shall be judged to be most effectual." With this view Mr. Russell was directed to consult the members of the Executive Council, and the Judges, and Law officers of the Crown, in Upper Canada and to report to his Majesty's Government, "in what manner and to what extent a portion of the Crown Lands might be appropriated and rendered productive towards the formation of a fund for the above purposes." On the 1st December 1798 the Executive Council reported to Mr President Russell that an appropriation of 500 000 acres, or ten townships after deducting the Crown and Clergy reserves, would be a sufficient fund for the establishment and maintenance of the royal foundation of four Grammar Schools, and an University, and that the proposed School fund should, when raised, be applied:-

1st. For the erection of the necessary buildings.

2nd. For the payment of the salaries of the Masters.

3rd For keeping the buildings in repair, the purchase of books and philosophical apparatus, and other purposes essential to places of education, but in general too costly to be provided by individuals.

The Council also reported that the towns of Cornwall Kingston Newark and Sandwich were, at that time, the most proper places for the sites of the four Schools, and that they considered York as entitled to the University both as being the Seat of the Executive Government, the Legislature, and the Courts of Justice; and as being by far the most convenient spot in the province for all general purposes—its situation being nearly central and besides its accessibility by water, the then proposed high road from the one end of the province to the other being necessarily to pass near it, or through it. The Council proposed that two of the Schools—namely those at Kingston and Newark should be commenced first; and that, wherever the appropriated fund should be found sufficient,

the towns of Cornwall and Sandwich should each receive a similar mark of the Royal munificence In this manner they conceived that the lands thus appropriated would not only be amply sufficient for the establishment and support of the four Schools but would be nearly if not quite adequate to the erection and endowment of the University—whenever the advancement of the Province should call for such an Institution, and they recommended that the provision for the establishment and maintenance of the University should, at least, be equal to that of the four Schools taken together

The precise details of the action which was taken upon this Report cannot now be ascertained but it will be observed that the original instructions are sufficiently indicative of the intention of the Home Government to place the educational seminaries and their endowments under the control of the Local Legislature at whose suggestion the appropriation was made

In consequence of the reckless profusion of grants which placed the wild lands of the Province in the nominal possession of a few proprietors who could neither use them themselves nor render them subservient to the promotion of any public purpose the sale of lands and the advancement of the country were very slow, and consequently for more than twenty years after the original appropriation, the School Lands remained totally unproductive In 1806, the Legislature to show that something more than Grammar Schools was required did all their limited means then permitted, in providing a small apparatus for the instruction of youth in physical science and in 1807, a temporary act was passed by the Provincial Legislature and made permanent in 1808 providing for the establishment of a School answering to a Grammar School, in each District. The School Lands, however afforded no aid to the District Schools, which were irrespective of the general endowment, and for the maintenance of which the Legislature was compelled to provide otherwise. In 1816 a law was passed for the further improvement and extension of Common Schools. This act was limited to four years continuance and when renewed a 1820 several amendments were introduced which detracted very much from its value, particularly one which greatly reduced the appropriation.

The reduction referred to was the consequence of the arbitrary and exclusive views which had for sometime manifested themselves in the proceedings of the Executive Government The High Church party had long men specked all office and influence and it is rarely that that party have given a willing support to any general system of Education Least of all were they likely to afford any countenance to a scheme by which its blessings we all have been equally diffused among all classes and denominations. They foresaw that if so valuable an endowment as the School Lands might eventually prove were left to the disposal of the Legislature the country would in all probability receive a popular system of Education, unfettered by party or sectarian restrictions, and that a favourable opportunity would thus be lost, of placing the ascendancy of the Episcopal Church on a solid foundation In 1818 the growing importance of the School Lands attracted the attention of the Government, and the attempt was then made

fraudulently too successful, to defeat the object of the grant by "fraudulently diverting it from its original purpose. Without the consent, and indeed without the knowledge of the Legislature, by whom the School Lands had been held in trust, certain members of the Executive Government, among whom was Mr. Strachan (then a leading member of the administration), secretly planned and effected an arrangement by which the people generally might be deprived of all benefit from the endowments, by which the Legislature might be divested of its control, and by which the section of the Grammar Schools might be postponed to an indefinite period in favour of an Episcopal University, established on such exclusive principles as would benefit only the party to which the members of the Government in whose hands it was invariably belonged. A fraud more facetious to the people has not been perpetrated in the worst periods of Provincial corruption, but the secrecy with which it was devised and executed, effectually protected it from the opposition of the Legislature. The scheme was not once mooted in Parliament, and the robbery was consummated without a single voice being publicly raised in defence of the people's rights.

A Committee of the Executive Council, on 7th January, 1819, reported that no trace of any answer to the Report of the Council of 1st December, 1788, could be found in the Council Office—that as they were of opinion with the Attorney General (Mr Robinson) that the appropriation of land was not sufficiently sanctioned to authorise a grant in other portions than limited by his Majesty's Commission they thought it proper to recommend that his Excellency Sir P. Maitland should call the attention of his Majesty's Government to a formal sanction to "sell lease grant and dispose of the 500 000 acres of land for the purpose of establishing a University as provision for District Schools was not by them thought necessary out of this fund, their establishment and maintenance having been already provided for by the Legislature; and that in order to construct the necessary buildings the sum of £10 000 would be required, with an endowment of £4000 per annum for the payment of salaries, and that a Commission should permanently attend, with large powers to sell and lease the land and manage its revenues, *under the direction of the Executive Government*." It was also considered, "that it would confirm much to the importance and utility of the projected University *if its Constitution should be by a Royal Charter*."

If the necessity which existed for a University at the time when the population of Upper Canada did not exceed 145,000 and when private enterprise and public improvement were checked by every species of jobbing and extortion on the part of the Government, or it to be estimated by the extreme which the parties who concerted the alienation of the School Lands must adopt to be a reasonable one—namely, the success of its opening after 24 years of subsequent commercial and agricultural improvement—after the country has quadrupled its population, when the increased value of the lands has enabled the University to enlarge its annual expenditure from £4000 originally proposed by the Executive Council to nearly £15,000, when it has gone into operation with means munificent beyond all precedent in the early history of any literary institution in America, and united

In the only history of any country, with a liberty, philosophical appointed, and an array of professors and officers, unsurpassed by any other educational seminary on this continent; and which, after being all along under the fostering care and direction of the very individuals who projected its establishment, it has not been able to matriculate in its first and second terms more than 32 students,—it will appear sufficiently obvious that the Executive Government had other objects in view in effecting the alienation than the general diffusion of Education among the people. If, however, the establishment of a University was then deemed necessary, in consequence of the increased number of young men who were turning their attention to the learned professions, the Government was bound to have sought the means from other sources than the School Lands, of which the Legislature were and unlawfully the trustees, and even if the claim of the Executive Council to the control of the endowment had been well founded, its diversion from the original object was a direct violation of trust, and of the stipulations and agreements on which had been expressly made when the appropriation was first proposed. The Report of the Council in 1798 suggested the necessity of establishing the Schools before the University should be proceeded with. It expressly stated that in the first place the two at Kingston and Newark should be placed on a permanent and substantial foundation, and that whenever the circumstances of the Province should call for the erection of two other Schools, and also that the appropriation fund should be sufficient not only to bear the expense of the erection and endowment of those two Schools, but also to leave a residue sufficient for the establishment and future maintenance of a Seminary of a larger and more comprehensive nature, the same steps should be pursued with respect to such two Schools as have been already recommended with respect to the two Schools at Kingston and Newark." But what steps had been taken for the erection of the Schools here proposed? It is true that in 1807 the Legislature, finding it absolutely necessary to make some available provision for the education of the people, had established the District Grammar Schools, but the Executive Government of 1819 were perfectly aware and none knew better than Mr. Strachan their acknowledged leader, that however liberal the provision might have been when the population did not exceed 50,000, it was quite inadequate to meet the growing necessities of the Province from its increased commercial wealth and population. But if the Legislature while the School Lands remained unproductive, wrested itself of the constitutional means for the diffusion of education by direct taxation, it is difficult to see that in consequence of this step the people forfeited or surrendered their right to the endowment when the lands became available. It was obvious however, that a popular system of education did not suit the views of the Executive Council, by whom every attempt to introduce it into the Province had been steadily resisted; and the establishment of the University was anxiously regarded as an important feature in the great scheme then contemplated by the High Church party to Episcopalize the Province and to incorporate the Church of England with the Government, as an appendage to the State.

The acquisition of the School Lands offered prospective benefits of too valuable

a disciplina to be left long unimproved by the High Church party. An observance of a great portion of the endowment having been carelessly selected from indifferent land in remote parts of the Province, it had remained nearly unsaleable. It was therefore proposed by the Council, that in order immediately to place the University on a substantial foundation, the School Lands now appropriated to the University should be exchanged for an equal portion of the Crown Reserves, which were looked upon as immediately marketable. The character of the proposed Institution was at the same time resolved on, and the exclusive Universities of England furnished appropriate models for the erection of this bulwark of Episcopacy. The only danger to be apprehended was the exposure of this nefarious scheme at a time when popular opinion might operate against its accomplishment; but at once to silence popular discontent and to protect themselves from future assaults, the High Church party formed the design of entrenching their position by a Royal Charter, which would throw upon the Crown the odium of this illiberal institution. It was, however, easy to foresee that a Charter adapted to their design would not be obtained without misrepresentations of a gross character, that ordinary ingenuity and boldness might fail in the attempt, and as His Excellency Sir Peregrine Maitland had refused his consent to the exchange of the School Lands for the Crown Reserves, without special instructions from the Home Government, the high and important trust was reposed in Dr Strachan of proceeding to England and soliciting in person from His Majesty's Ministers the private transfer of the people's rights—the sacred to be shamble even by themselves—and which notwithstanding the courage with which he is amply endowed, he would have shrunk from proposing to the people's representatives.

The result of Dr Strachan's mission to England is sufficiently known; but his proceedings while there, form too curious a chapter in the annals of the University to overlook it in this place

CHAPTER II.

THE ORIGINAL CHARTER.

When application for the Charter of King's College was made Lord Bathurst—a bigoted High Churchman, and odious for his exclusive principles—held the seals of the Colonial Office. In him the High Church party of Canada reposed implicit confidence, and the most revolting proceedings were taken in order that a plausible case might be laid before the Secretary and his colleagues. The Dissenters of all denominations were stigmatized and insulted in every shape that the rancorous hostility of the Press, and also the servility of the Pulpit, could devise. They were stigmatized as Republican in their principles, and

disloyal in their affections—they were invidiously marked with ignominious titles, and were even made the objects of systematic and direct persecution on the part of the magistracies. It was thought, that if his Majesty's Ministers could be disposed with the idea that Dissenters generally were disaffected, a measure would be adopted in Canada similar to those which had formerly driven the Puritans from the British shores, and that the Episcopal Church would be secured in those privileges and immunities which were enjoyed by the Establishment in England. Nor the least notable of the clandestine efforts of High Church intolerance was a Sermon preached by Dr. Strachan, then Archdeacon of York, immediately previous to his departure for England, on the death of Dr. Mountain, the first Bishop of Quebec. On an occasion of such solemnity, it might have been expected that the shafts of calumny and misrepresentation would have been sparingly used, and that over the ashes of the dead, sectarian hostility would have yielded to milder and better feelings. For the benefit of those who are curious in High Church eloquence, we subjoin a specimen of the pious remarks before with which this Christian Archdeacon appeased the manes of his departed brother of Quebec:

"Even when all arches are erected, the minister's influence is frequently broken or injured by numbers of ill-trained Sectarist preachers, who leaving their usual employment, betake themselves to preach its Gospel from—illness, as a zeal without knowledge by which they are imbued without any preparation, to teach what they do not know and which, from their pride, they disdain to learn.

"When it is considered that the religious teachers of the other denominations of Christians—a very few respectable ministers of the Church of Scotland excepted—come almost universally from the Republican States of America where they gather their knowledge as I from their sentiments, it is quite evident, that if the Imperial Government does not immediately step forward with efficient help, the mass of the population will be nurtured and networked in hostility to our Parent Church nor will it be long till they subscribe opinions any thing but favourable to the political institutions of England.

"It is only through the Church and its Institutions, that a truly English character and feeling can be given to, and preserved in any foreign possession."

Previous to Dr Strachan's arrival in England the Colonial Secretary had been carefully prepared for the extraordinary demand which was about to be made. In a petition to his Majesty and the British Parliament which he transmitted through Lord Bathurst, the Rector of York announced the following astounding facts:

"That the population now greatly increased and embracing in its bosom many denominations of Christians, at it returns its prominent feature of being attached to the Church of England, the members of which together with the Dutch and German Lutherans, who join them in communion comprising by far the most numerous description of Christians in Upper Canada

"That the very little progress made by the other denominations, compared to that of the Church of England, and the very recent establishment of their divisy congregations has generally created in the minds of the people a veneration for it, as the established form of worship in which it has always been presented [by the Doctor and his friends], to the inhabitants of the Provinces,

from their earliest years. Such is now the state of the Province, and the desire for religious instruction according to the forms and discipline of the Church of England, that many intelligent persons well acquainted with the Country say of opinion, that along the greater part of the main road passing from one extremity of the Province to the other, a distance of nearly 400 miles, a Church might be erected, and a Clergyman profitably placed at the distance of every ten miles, and the enclosure of the parishes already established.

"That when new missions are planted in any quarter, not only those persons, usually few who are not particularly attached to any denomination, but even Presbyterians and Congregationalists attend public worship with their families, so that on many occasions the whole neighbourhood becomes one of the Church; and not only are these and burials according to its rites, but likewise the bodies of their friends and relations are frequently collected from private places of interment, and again consigned to their graves in the public burial grounds, with the solemn offices of the Church. Moreover their children are baptized and educated in the bosom of the Church, and the greater number at length confirmed by the Bishop; and a congregation is thus in a few years formed, strongly attached to our venerable Establishment; and even in those remote parts of the country where Methodist itinerants are the most active in their labours the population is sufficiently compact to admit and require the administrations of a regular Clergyman *as fixed his congregation increasing by the gradual accession of their more respectable adherents*

"*That the Church is increasing so rapidly as to offer great encouragement to respectable families to bring up their children to the sacred profession accordingly a list of more than thirty students now lies before your petitioners and many more young men there can possibly be provided for, are presenting themselves* to the Lord Bishop as candidates for Holy Orders."

No objection is made by parents against teaching their children the Church Catechism and the service of the Church from the Book of Common Prayer on the contrary all denominations are desirous of obtaining both for their own and their families edification. The whole neighbourhood bring their children to the resident Clergyman to be baptised and submit in great numbers, both old and young to the rite of confirmation and send their youth to the Sunday Schools, and allow them often their books are heard to walk in procession to the Church. In fine there needs only appears the fairest prospect that the Church of England, from the favourable disposition that now exists towards it, will be able to collect within its bosom the bulk of the inhabitants, *should no prospect of supporting their Clergy* be held out to the various dissenting denominations.

That, with the exception of the Methodists who have been deserted by their brethren in England and left for instruction to itinerants from the United States, there appears no prominent denomination of Protestants in this Province but the Established Church, capable of exciting public attention.

There is no appearance in any other part of the Province of a third congregation. A communion with the Kirk of Scotland being formed, nor in this denomination popular for when the people leave the Established Church they claim the privilege of electing their minister from whatever quarter they please, which the Kirk deems them. Indeed the Presbyterian form of discipline and Church government is inconsistent with extension as it cannot be completed out of Scotland, nor can its clergy be placed in a distant colony under vigilant superintendence."

Immediately on his arrival in England in 1823, Dr Strachan placed himself in communication with the leaders of the High Church party, from whom he procured contributions in aid of the funds of the University, and these sufficient

and assistance in obtaining an exclusive Charter. In England he openly avowed the design which he dared not to have breathed in Canada. In a pamphlet, which he published in London, entitled "An Appeal to the Friends of Religion in behalf of the University of Upper Canada," he distinctly stated that it would be essentially a Missionary College "for the education of Missionaries of the Church of England"—and, as an inducement the members of that Church to contribute towards the funds of the College, he maintained, "that the effect of establishing it in University would be ultimately to make the greater portion of the population of the Province members of the Church of England.

To the various parties with whom the Reverend Doctor communicated privately, he urged every variety of argument, and, without much regard to consistency, he adduced every variety of fact. From the Society for the Propagation of the Gospel in Foreign Parts he claimed assistance on the ground of his "having been instrumental in establishing a scheme in Canada, by which the education of the whole population is virtually under the direction of the Church." He informed them that there were in this Province "30,000 British Protestants" (meaning of course members of the Episcopal Church), and that the only antagonizing influence with which they had to contend was the existence in Lower Canada of 400,000 Catholics. To the Church Missionary Society he repeated much of this invaluable information, and by way of showing that the establishment of a University in Upper Canada was correlative to their zeal in propagating Christianity among the heathen he enlarged upon his own tender and paternal feelings towards the Indians, and actually acceded to a proposal for the Establishment of Scholarships, with eligible professorships, for the exclusive benefit of the Tribes.

But the most elaborate information in regard to the Ecclesiastical Statistics of the Province was contained in a Letter and Ecclesiastical Chart which he transmitted to the Hon. R. J. Wilmot Horton then Under Secretary of State upon which communication he grounded the exclusive claims of the members of the Church of England to the benefits of the Clergy Reserves and the University. In the Chart he stated that, in connection with the Established Church there were 38 clergymen, 58 places where there was regular or occasional service, exclusive of frequent journies taken by the missionaries to the new settlements in their neighbourhoods—45 churches and 31 regular parishes." That there were 7 ministers of the Independent or Presbyterian order "among the appellation of the Presbytery of the Canadas but having no connection with the Kirk of Scotland"—that there were two more in connection with the Kirk—and "as the Methodists have not settled clergymen it has been found difficult to ascertain the number of itinerants employed but it is presumed to be considerable, perhaps from 20 to 30 in the whole Province." The other denominations have very few teachers and those exceedingly very ignorant. One of the two remaining clergymen in communion with the Church of Scotland, has applied to be admitted into the Established Church."

Dr. Strachan's Letter to Mr Horton, enclosing the Chart, furnishes so much

important evidence of the gross misrepresentation upon which the Royal Charter was obtained, that it is proper to quote it at length :

"Sir,—I take the liberty of enclosing, for the information of Lord Goderich, an Ecclesiastical Chart of the Province of Upper Canada, which I believe to be correct, for the present year 1827, and from which it will appear that the Church of England has made considerable progress and is rapidly increasing.

"The people are coming forward, in all directions, offering to assist in building churches, and soliciting with the greatest anxiety the establishment of a settled minister. Indeed, the prospect of obtaining a respectable clergyman, unites neighbourhoods together; and when one is sent to a safe and conciliatory disposition, he is sure in any settlement in which he may be placed, to form the respectable part of the inhabitants into an increasing congregation. There are in the Province 150 Townships, containing from 40 to 500 families, in each of which a clergyman may be most usefully employed and double that number will be required in less than twelve years.

"When contrasted with other denominations, the Church of England need not be ashamed of the progress she has made. The Irish there was only one clergyman in Upper Canada a member of the Church of Scotland. The gentleman brought up his two sons in the Church of England of which they are now part of the parish. After his death his congregation was split in three divisions which with another collected at Kingston in 1822, record four congregations in all, which are in communion with the Kirk of Scotland. Two are at present vacant and of the two Scotch clergymen now in the Province, one has applied for Holy Orders in the Church of England.

"The teachers of the different denominations with the exception of the two ministers of the Church of Scotland four Congregational etc, and a respectable English Missionary who presides over a Wesleyan Methodist meeting at Kingston are for the most part from the United States where they gather their knowledge and form their sentiments. Indeed the Methodist teachers are subject to the orders of the Conference of the United States of America, and it is manifest that the Colonial Government neither has nor can have any other control over them at present than from gradually rendering a large portion of the population by their influence and instructions hostile to our mild and religious form by increasing the number of the Establ shed Clergy.

"Two or three hundred clergymen living in Upper Canada, in the midst of their congregations and receiving the greater part of their increase from funds deposited in the country (England) must attach still more intimately the population of the Colony to the Parent State. Their influence would gradually spread, they would infuse into the inhabitants sentiments and feelings entirely English and acquiring by degrees the direction of education which the Clergy of England have always possessed, the very first feelings sentiments and opinions of the youth must become British."

Deceived by such representations, and unacquainted of the veracity of the highest Episcopal Ecclesiastic of Upper Canada the Colonial Secretary in an evil hour affixed his signature and the Royal Seal to the Charter in the terms required, and the Archdeacon of York was rewarded with a sum of £1,000 for his invaluable and meritorious exertions on behalf of the Episcopal Church.

When a Royal Charter was first openly spoken of in the country it was generally understood that as it was then impracticable to have several appropriate Colleges for the different sects, the University would be adapted to the existing state of the Province and to the whole and waste of its mixed population.

The consternation and disappointment then were proportionably great when the provisions of the Charter became known, and it was ascertained that the University had been converted into a purely Episcopal College. In his Speech at opening the Parliament, on 16th February, 1832, his Excellency Sir F. Maitland said:—"I have much pleasure in announcing to you, that his Majesty has very graciously provided for the establishment of an University in this Province, and has intimated means which will answer the early accomplishment of an object, long regarded by me as among those most to be desired for the welfare of the Colony." But to this part of the Address the House of Assembly replied with becoming caution and reserve in the following words:

"We shall be highly gratified to find that His Majesty has very graciously provided for the establishment and endowment of an University in this Province, if the principles upon which it has been founded shall, upon enquiry, prove to be conducive to the advancement of true learning and piety, and liberality in the civil and religious liberty of the people."

In the meantime, rumours of the exclusive provisions of the charter having transpired, the indignation of the Province was effectually aroused. It was universally believed that His Majesty's Ministers had been deceived by gross misrepresentation, and that if they had been truly informed of the condition of the Province, and the religious views and feelings of the people, the Royal sanction would never have been given to a charter which denied them civil and religious equality. Petitions from all parts of the country were poured into the two Houses of Parliament, representing that the principles of the Charter were inconsistent with the unimpaired preservation and maintenance of the civil and religious rights and privileges of the people. It was thought that a University adapted to the character and circumstances of the people, would be the means of inestimable benefits to the Province; but, to be of real service the principles upon which it was established should have been in unison with the general sentiments of the country—that it should not be a school of politics or sectarian views—and that it should have about it no appearance of a spirit of partiality or exclusion. That no portals should be thrown open to all, and upon none who entered should any influence be exerted to attach them to a particular creed or Church. That it should be a source of intellectual and moral light and animation, from which the glorious irradiations of literature and science might descend upon all with equal lustre and power. But if King's College under the Charter formed as it was for the exclusive advantage of a single Church and that a minor one, should be suffered to go into operation without material amendments in its government and without another College being established for the general benefit of other religious denominations, the unavoidable consequence would be that the entire youth of the Province, reserving a public education, would, with the exception of Protestant Episcopalians, be generally sent out of the Province to obtain it at Colleges where they would be taught classical learning, and the arts and sciences, without prejudice to their religious principles and feelings. Parents who were conscientious in their profession of religion would not willingly put their sons, in the expanded season

all proofs, under a promise of religious proselytism to a different faith; and the people felt that to be thus excluded from the offices and honours of the only College in the Province, and subjected to literary as well as ecclesiastical disabilities, for no other crime than that of adhering to the dictates of their consciences, was an unmerited degradation. It was at once perceived that the grand policy of the High Church party to Episcopalize the Province had come into operation, and that this was one great step towards the establishment of a national Church, with exclusive privileges and revenues, over a dissenting majority of the population;—declaring her form of religion to be the established religion of the Province, and her ministers the only Protestant Clergy, granting them civil precedence and immunities, and a control of the education of youth by means of the University. It was felt that such a system would, as it had been in Ireland, be a perpetual source of religious and political animosity—that it would give one Church a permanent separate interest adverse to the other more numerous Churches—and that all those other Churches, imitated by a baneful monopoly and domination, would be induced to make common cause in their own defence in opposition to the dominant Church.

It was therefore thought that his Majesty's Government would never have contemplated the limitation of its benefactions, by establishing the University upon such terms as must either preclude from its benefits the greater part of those for whom it was originally intended or subject them at an age ill qualified to guard against such attacks to the extent but powerful influence of a prevailing and regular system of proselytism, and that they could not have been aware of the insurmountable objections to which, from the circumstances of the country and the sentiments of the people, some of the provisions of the Charter were liable.

Petitions were at the same time presented to Parliament by various denominations of Christians, praying an inquiry into the truth of the charges and statements made by the Archdeacon of York relative to the character and instructions of the respective clergy whom he had stigmatized as mixing up sedition with the *Word of God*. Those petitions with the others, praying for inquiry into the principle on which the Un versity was established were referred to a Select Committee of the House of Assembly, with power to send for persons and papers, and to report thereon. This Committee performed their duties with the strictest impartiality Before proceeding to the examination of the Letter and Chart, the Chairman transmitted to Dr Strachan a copy of one of the petitions referred to them, and intimated that they would be happy to receive from him any observation upon the matter submitted to their consideration To this communication Dr Strachan returned an answer declining to avail himself of the Committee's offer to receive explanations, but adhering to the statements which he had made in England. "For my opinions," he wrote "I am responsible to no one. I had no desire to conceal them and they were therefore publicly and openly expressed. No consideration could have prevailed upon me to deny or qualify them; but in applying them every candid mind will feel that the general expressions used admit the existence of exception I desire it only to be borne in mind that they

were given from memory," a circumstance which Dr Strachan took opportunity to comment from Mr. Hinton. The Committee framed a list of fourteen questions, and examined in all forty-two witnesses. Among the witnesses were all the Members of the House of Assembly, whose testimony they could obtain, some Members of the Honourable the Legislative Council of long residence, high standing, and large possessions in the Province; various Clergymen of different denominations in York and its vicinity; and a few other individuals of high respectability.

The questions put by the Committee related, among other things, to the birth-place and education of the ministers of the various denominations; the tendency of the institution and influence of the Clergymen throughout the Province; the asserted increase of the Episcopal Church; and the tendency of the population toward it; the wishes of the inhabitants of Upper Canada in regard to the establishment of one or more Churches or Denominations in the Province with peculiar rights, privileges or endowments; the interference in politics by the Clergymen of the various denominations; the proportion of the members of the Episcopal Church to the whole population of the Province; the opinions of the witnesses as to what was the most numerous denomination of Christians in the Province; the asserted ignorance of the teachers of the various Christian Denominations, and the accuracy of Dr Strachan's Ecclesiastical Chart of the Province.

The interrogatories elicited a mass of curious and interesting information as to the early Ecclesiastical history of Upper Canada—and in every important particular Dr Strachan's statements were proved to be false by the most unexceptionable testimony.

The assertion in Dr Strachan's letter that "the people are coming forward in all directions offering to assist in building Churches, and soliciting, with the greatest anxiety, the establishment of a settled Minister" and that "the tendency of the population is toward the Church of England and nothing but the want of residents to support prevents her from spreading over the whole Province more completely even than by the exertions. It was proved, that although the Episcopal Church had always enjoyed peculiar advantages in Canada although it had been the religion of those high in office and had been supported by their influence and countenance more than any other Church by the favor of the Executive Government; that although its clergymen had possessed the exclusive right of marrying persons of all denominations and that although the clergymen of the Episcopal Church had also been liberally supported, and their Churches partly or wholly erected and maintained from the funds of a Society in England, still the number of members of that Church had not increased in the same proportion as that of several other denominations, and the opinion of the witnesses was decidedly expressed that the tendency of the population was not toward that Church. On the other hand the highest testimony was offered to the disinterested and indefatigable exertions of the Methodist, Presbyterian, and other clergymen who had been calumniated by Dr Strachan's unfounded

institutions.—Their influence and instruction, far from having (as was represented in the letter) a tendency hostile to the religious and political institutions of the Province, has been conducive in the highest degree to the preservation of that boasted loyalty and attachment to the British Government which happily distinguishes all ranks, the foundation of all sound loyalty and social order. There was no reason to believe that, as religious bodies, they had found themselves, by precept and example, as a Christian duty, an attachment to the Sovereign, and a cheerful and conscientious obedience to the Laws of the country.

Compared with the whole population, the members of the Church of England were found to constitute an extremely small proportion. On this subject the Committee used every exertion to inform themselves with accuracy. Besides obtaining answers from the witnesses to very minute questions, a Committee was appointed to hold their meetings at York, called the Central Committee of Upper Canada, and was directed to correspond with the other parts of the Province, to suggest the appointment of District Committees, and to request that they would carefully collect and transmit to the Central Committee at York, accurate information respecting the number of persons belonging to the religious denominations in their neighborhood. In consequence of these instructions, communications have been received from the various parts of the Province, containing correct and full information upon those subjects, obtained from personal knowledge or inquiry, and authenticated by the signatures of respectable inhabitants. A Chart was framed from the materials thus obtained, and presented in the opinion of the witnesses who spoke to it, a very complete and fair view of the number of ministers and of the different religious denominations in the Province. The information conveyed by the Chart so completely and satisfactorily contradicts and subverts Dr. Strachan's statements, and bears so materially on the question whether a Charter granted on false representations and calumnious insinuations, should not be set aside and annulled that we think it right to subjoin abstracts of the Charts framed by Dr Strachan and by the Committee of the House of Assembly respectively.

ABSTRACT OF DR. STRACHAN'S ECCLESIASTICAL CHART,

FOR THE YEAR 1827.

DESIGNATIONS.	Clergymen.	Places of Worship.	Churches built or building.
Episcopalians,	39, and 1 under consideration.	88 places where regular or occasional service.	45, ten of them building.
Kirk of Scotland,	2, two others vacant.	4	
Independents,	6	6	
Methodists,*	From 20 to 30.		

* As the Methodists have no settled Clergymen, it has been found difficult to ascertain the number of itinerants employed; but it is presumed to be considerable—perhaps from twenty to thirty in the whole Province. The other denominations have very few teachers, and those accurately very respectable. One of the two remaining Clergymen in communion with the Church of Scotland has applied to be admitted into the Established Church.—*Dr Strachan's Note.*

ABSTRACT OF ECCLESIASTICAL RETURN PREPARED BY COMMITTEE OF THE HOUSE OF ASSEMBLY

REPORTED MARCH 8, 1838.

DENOMINATION.	Number of Preachers.	No. sent to His Majesty's Colonies.	No. sent to Foreign Countries.	No. both employed at Home and Abroad.	No. ordained by His Majesty's Authority.	No. educated in Foreign countries.	No. educated within do.	No. naturalized.	No. not naturalized.	No. of Members in Regular Communion.	No. of Churches or Chapels.	No. of places of occasional service.	No. of regular hearers.	No. of Sunday Scholars.
Methodists, - - - -	117	50	37	0	91	98	0	99	0	9000	66	639	130	38,211
Baptists, - - - -	45	20	4	15	38	1	10	4	0	1435	3	8	No return	1740.
Episcopalians, - - -	31	11	0	20	10	1	30	0	0	No return	28	31	30	No return
Presbyterians, - - -	10	13	2	0	11	3	2	1	0	648	20	No return	No return	No return
Kirk of Scotland, -	6	4	0	2	4	0	0	0	0	No return	No return	No return	No return	No return
Menonists and Tunkers,	20	0	20	0	0	20	0	13	0	1194	8	No return	No return	2000
Wesleyan Methodists,	1	1	0	0	1	0	0	0	0	50	1	1	No return	100

NOTE.—The Roman Catholics are not given in the Chart, but it is well known that they were equal in number to any other denomination in the Province. There was also a considerable number of Lutherans and Quakers, of whom no notice seems to have been taken by the Committee.

No return seems to have been obtained from the Episcopalians of the number of regular hearers. It would be impossible to hazard a conjecture as to their amount. In a "Report of the Society for the Propagation of the Gospel in Foreign Parts, for the year 1837," it is stated that "the greatest number of Church of England communicants at any one time during that year was 387."

That the grand policy of the High Church party was to Episcopalize the Province by means of the University was now sufficiently obvious from the undisguised sentiments of their acknowledged leader, who quickly saw that such was the natural tendency and effect of putting into the exclusive hands of the Episcopal Church, the only seminary of learning in the country where a liberal education could be obtained. It was obvious, however, that there was in the minds of the people generally, a strong and settled aversion to any thing like an Established Church—the very attempt to invest the Episcopal Church with peculiar rights and privileges, from which the other sects were excluded, excited the greatest alarm and jealousy throughout the country. It was felt that it would be impolitic, as well as unjust, to exalt this Church, which embraced so small a minority of the inhabitants, by exclusive rights above all others of his Majesty's subjects, who were equally conscientious and deserving; and that the jealousy and alarm of the people were sufficiently well founded was but too obvious from the exclusive provisions of the Charter itself, a copy of which was sent down to the House of Assembly by the Lieutenant-Governor.

It appeared that the following were among its provisions: The Bishop of the Diocese was to be visitor, and as such might disapprove of the bye-laws made for the College by the Council, which thereby became void, unless His Majesty in Privy Council afterwards reversed this order; the Governor, Lieutenant Governor or person administering the Government, was to be Chancellor the President was to be a Clergyman in holy orders of the Church of England the Honourable and Venerable Doctor Strachan, Archdeacon of York was to be the first President—the Corporation was to consist of the Chancellor, President and Scholars of King's College and was authorized to take and hold real Estate, not exceeding the yearly value of £15,000—the College Council was to consist of the Chancellor President, and seven other persons, who were to be Members of the Church of England, and to sign the thirty nine Articles of that Church, previous to their admission into the Council the Council under certain restrictions, were to make bye laws for the College—one of these restrictions was, that no religious test or qualification should be required of or appointed for any persons admitted or matriculated as Scholars in the College except that those admitted to the degree of Doctor in Divinity should take the same declarations and subscriptions, and take the same oaths as are required of persons admitted to any degree of Divinity in the University of Oxford. The Chancellor President, and Professors of the College, and all persons admitted in the College to the degree of Master of Arts, or to any degree in Divinity Law or Medicine, who, from the time of such admission should pay the annual sum of 20s. sterling, towards the support of the College, were to be members of the Convocation

Such were the exclusive constitution and government imposed upon an Institution professedly designed for the promotion of science and learning among the people of Canada! That a Charter so violently repugnant to the feelings and convictions of the community should have been received with joy by the

High Church party was of course to have been expected; but that the British Government should, in a matter of this kind, have shown any disposition to plant institutions in its transatlantic dependences in accordance neither with the spirit of the age nor with the principles which had for some time governed its domestic policy, can only be attributed to the fact—of which abundant proof has been given—that it was grossly deceived and imposed upon. And even were there not in existence ample documentary evidence to support the charge of deception, how otherwise is it possible to reconcile the policy of that Government, which had opposed intolerance at home, and was about to wage open war with all monopolies and exclusives, civil, religious, and commercial; which had recently relieved the Dissenters of the odious Test and Corporation Acts; which was diffusing the blessings of a national education among the people of Ireland, without distinction of creed; and was about to send joy and gladness into the bosoms of the Roman Catholics, with the acceptable boon of Catholic Emancipation;—with the establishment, in a country swayed with free principles and in a vast community composed of Christians of different faiths, and worshipping under different forms, of a Deity unity unparalleled for its exclusive character and odious distinctions by any educational Seminary on the continent of Europe? Oxford and Cambridge indeed formed exceptions to the universal abandonment of tests—and even there religious restrictions were only defended and maintained on account of the intimate association and practical connection of those time hallowed Institutions with the National Church! Yet in Oxford and Cambridge themselves religious distinctions were comparatively new, and had been imposed at a period—by no means the brightest in their annals,—when genuine freedom was almost unknown and when speaking of liberty, or expressing an opinion favouring of schism was sufficient to bring a man within the fangs of the Court of High Commission!

But when the Charter of King's College was obtained, such intolerant principles had been repudiated by every State in Europe and exclusive distinctions on account of religion had been abandoned in all the great National Universities. In France, in Germany and in Austria persons of all religions were freely admitted into the Professors' chairs. In the University of Bologna, where the Papal authority was paramount, there was no exclusion on the ground of religion. In Pisa no restrictions were recognized, and in point of fact Mohammedans Jews Greeks and Turks were indiscriminately admitted. Indeed it frequently occurred that some of the Professors' Chairs were filled by English Protestants and one circumstance sufficiently attests the total absence of that fanatical intolerance which seemed to have been put to flight in Europe to find a refuge in the Academies of Canada. When a Mohammedan takes a degree at Pisa, the Chancellor who is generally a Vicar-general or Archbishop, leaves the chair and the Vice-Chancellor, whose religious scruples are not necessarily under the influence of Church preferment—presides at the ceremony. At Padua, the chairs have been frequently filled by foreigners—by members of the Church of England—by Presbyterians, and by Calvinists. Thus, in the Roman, Venetian,

and Austrian States, there was an absence of jealousy and religious exclusiveness at the Roman Catholic Universities. Nor was there any disposition to interfere with rational consideration and the rights of private judgment exhibited in the Universities in any part of Protestant Europe. In Jena Baden Brunhas, and Copenhagen, the Universities were open to all. In Leyden, the Professors might be Roman Catholics and in Copenhagen, one of the chairs was, at the very time the Charter of King's College was obtained filled by a Jew. In the Scottish Universities, the Test Statute originated in the zeal of the anti-patronage Presbyterians after the Revolution, and was enacted by the Scotch Parliament for the sole purpose of excluding Episcopalians from the Colleges at a time when Episcopalians and members of the Society of Friends were conceived to be alike unworthy of toleration. For many years however, the Statute had been evaded, and its evasion winked at by the constituted authorities; and it is a somewhat remarkable circumstance that a pretty liberal infusion of Episcopalian Professors, Lecturers and Students into the Scotch Universities seems to have been attended with no very fatal result. Indeed, while every University in Europe was practically thrown open to persons of all religious denominations, Oxford and Cambridge alone were close, and yet model-men these exclusive establishments, in which High Church principles have ever been dominant, and a violent and bigotted hostility to the claims of Dissenters, has ever been maintained,—the attempt was made to establish a University intended to be the hotbed and nursery of intolerant prejudices in a country whose very atmosphere was freedom—whose infancy and growth, unlike that of the European States, had not been stunted by oppression—but which had sprung at once into the full manhood of liberty and the possession of political rights; among a people who had ever evinced the most inveterate dislike of a dominant Church, and a severe jealousy of religious distinctions, and whose proximity to a land of free institutions, naturally made them chafe under any galling ascendancy which might expose them to the hatreds of their scientious neighbours.

Were the character of Lord Eathurst less understood, or were the blind and bigotted zeal of the High Church party in England, as well as in Canada, less violent and headstrong, it would be difficult to conceive how the gross and calumnious misrepresentations of the Archdeacon of York urged even though they were with the reckless intensity for which he is remarkable, should have escaped detection. Certain it is, that within the space of a few months, he had published statements, not only at utter variance with the truth, but most violently contradictory to each other. Thus, for instance, in his sermon on the death of the Bishop of Quebec, he complained that "sections of all denominations are increasing on every side" while in his letter to Mr Horton, he affirmed, that "the Church of England is rapidly increasing," and that "the tendency of the population is towards that Church." In the sermon he admitted that "even where churches were erected, the persons who gave regular attendance are as few as greatly to discourage the minister;" while in the letter he asserted that, "the people are coming forward in all directions, offering to assist in

building themselves, and watching with the greatest anxiety the establishment of a *settled* ministry." In the reckless statements which he poured forth at England, he unhesitatingly averred, that "the members of the Church of England were the most numerous of any religious denomination in the Province;" but when examined on oath by a Parliamentary Committee in reference to the truth of that statement, and confronted with persons intimately acquainted with the state of the country, he admitted that "he never knew the number of members belonging to the Church of England, *and that he could not tell how numerous they were.*" Such are only a very few of the glaring inconsistencies and contradictions which graced the written and public assertions of this Episcopal dignitary: and yet so little in nature was the local Administration with the interests and feelings of the people, and so little were those interests and feelings known or understood by the British Government, that his clamorous and mis-statements were implicitly believed, and, without further inquiry having been instituted, were made the ground for the establishment of an Episcopal University for the exclusive benefit of an unacceptable minority of the community.

It would be a matter for much curious and not unprofitable speculation, to inquire by what irresistible arguments of violent and dignified pertinacity a Colonial Minister could be induced to insult the convictions, and to trample on the liberties of a free people. It was impossible to mistake Dr Strachan's real object, for that was openly avowed and in fact it formed no part of his plan to conceal his ultimate design. His undisguised and avowed object was to Episcopalize the Province and as the readiest means for attaining so desirable an end he proposed that a fund, originally appropriated for the purposes of general education should be applied to the endowment of one exclusively Missionary College, for the education of missionaries of the Church of England," who, he trusted, would be afterwards supported in such numbers by means of the Clergy Reserves, as would speedily redress the Province to the ecclesiastical jurisdiction of that Church. And by what honeyed phrase and treacherous sentiment is this Colonial Minister induced to give his Majesty's sanction and approval of a nefarious and fraudulent scheme to rob the Canadian people of their birthright? Does the venerous Archdeacon inform the Colonial Secretary that there are three denominations in the Province more numerous than the Church of England? Does he tell him what as a minister of Truth he had but a few months before told the people of Canada from the pulpit, that "where churches are erected, the persons who give regular attendance are so few as greatly to discourage the minister;" and that "sectaries were increasing at every gate?" Does he intimate that the means for the diffusion of general education are deplorably deficient, and that the endowment originally set apart for that purpose had never become available? Dr Strachan has too ready a perception of the character with whom he had to negotiate, to hope for success by revealing startling facts, but he at once resorts to the old argument—practically earned out by the Stuarts, and which still has its admirers among the High Churchmen of England. He informs the Secretary that the dissenting preachers are few and ignorant, and that their hearers are

dissatisfied. The dissenters were ignorant—and yet he would exclude them from the best education which the country could afford! They were disaffected—and yet he would drive them for their education to foreign seminaries, where their principles might be endangered! Their ministers were placed in situations requiring the highest cultivation of the mind—and yet he would debar them from the means of qualifying themselves for the discharge of those duties which their situation imposed upon them! He would exclude them from knowledge—and yet punish them for ignorance! He would rail against their disaffection—and yet preclude them from the enjoyment of those civil privileges which were open to others by partiality and favouritism! Admirable High Church logic! Generous exuberance of High Church philanthropy! It is not impossible that the love of classical allusion which recently inspired the reconcilable Bishop of Toronto, in his luminous comparison of the principle of University Bill with the policy of "Pagan Rome, which, to please the nations she had conquered, condescended to associate their impure deities with her own"[1] may also have reluctantly suggested to the erudite Archdeacon of York, a parallel "application of High Church doctrine to the Emperor Julian's celebrated decree which prohibited all Christians from the study of heathen learning—for reasoned this practical and pernicious expounder of High Church policy—" they will wound us with our own weapons they will overcome us with our own arts and sciences." Alas how fatal to the peace and prosperity of Canada—how disastrous to the interests of true religion has it been that this proscriptive Prelate and the intolerant party with which he is associated, should never have been able to discover that if the principles of Episcopacy are to conduce to loyalty and good government, no more effectual method could be devised for bringing the dissenters within the pale and well of the constitution as of the Church itself, than by admitting them to a full and unreserved participation with its members in the privileges and benefits to be derived from the general institutions of the country

CHAPTER III

PROCEEDINGS IN PARLIAMENT

Dr Strachan's calumnious misrepresentations drew down upon him the indignation of the whole Province Numerous petitions from every part of the country and from Christians of all denominations, were addressed to the Provincial and Imperial Parliaments emphatically disowning the disaffection which had been libellously imputed to them. Many who had been previously passive were now roused into active exertion Public meetings were held at

[1] See Bishop Strachan's Memorial to the Legislature, against the University Bill, in 1843.

York and various other places, where expression was freely given to the indignation which was universally felt at the illiberal and exclusive provisions of the Charter, and the base insinuations by which the character of the Clergy had been stigmatized. This fresh attempt to trample on their civil rights was viewed by the people as part of that system of religious intolerance under which they had long groaned, and of which Dr Strachan had been the chief promoter.

Year after year he had opposed a Bill to allow the Clergy of the various sects to solemnize marriages among their own flocks; and through his untiring instrumentality, a Bill authorizing the different denominations to hold lands which had been repeatedly passed in successive sessions by the Assembly was defeated in the Legislative Council. Irritated by direct injury and indignant at the premium on which their representations had been received by the Local Administration, it was at length resolved to make a solemn and direct appeal for redress to the British Government, and, at the same time, to call the attention of the Imperial Parliament to the degrading position in which the people of Canada felt themselves placed by the local Government. Accordingly, at a Public Meeting held at York in the beginning of 1828 an Address to the House of Commons was agreed upon and after receiving the signatures of forty Churches of all denominations, was transmitted to Mr Hume for presentation. In laying this Address on the table of the House Mr Hume duly exposed Dr Strachan's calumnious insinuations and misstatements, and thus alluded to the Clause of King's College —

"The Charter requires all the Professors and Officers of the University to subscribe the Thirty nine Articles of the Church of England. This is the spirit in which the regulations are drawn up for a Public Seminary, at which the youth of Upper Canada are to be educated. They are taught by Professors who hold the tenets of a small minority only of those From whom I have reason to believe that His Majesty's Government have been much imposed upon by Dr Strachan whose statements are completely exposed by the petition. That reverend gentleman has aroused all classes by his aspersions upon the Clergy of all other denominations. He has thrown out the most vague accusations and suspicions respecting their fidelity and loyalty which he has addressed especially to the Royal ear with the view of preserving it. Among other misrepresentations, Dr Strachan stated that of all the Clergymen in Upper Canada, not belonging to the Church of England, there were only five who were not born in the United States where, he said, they acquired opinions at variance with their duty as subjects of His Majesty. He asserts also that they are under the influence of the American Conference; and that the Colonial Government has no control over them. This is a gross misrepresentation; yet by means of it Dr Strachan has persuaded His Majesty to increase the exclusive privileges of the Church. What will the House say, when I tell them that the members of the Church of England form only a tenth part of the population, and when they hear how grossly Dr Strachan has slandered the other Clergymen of Upper Canada. By the investigation which has been instituted in consequence of his misrepresentations it appears that there are altogether three hundred and twenty five Clergymen in Upper Canada, of whom there are only thirty-one Ministers of the Church of England. Yet on the recommendation of the reverend gentleman His Majesty's Ministers were to establish three hundred Ministers of the Church of England at the public expense, and had endowed an University,

for the education of all classes where the Professors are required to belong to the sect which comprises only seventh part of the population. Of other Clergymen, there are one hundred and seventeen Methodists forty-five Baptists, and about forty or fifty of other denominations. So far from all of them having been educated in the United States, one hundred and th rty-three of the Methodists and Baptists, though only eleven of the Ministers of the Church of England were all born and educated in His Majesty's dominions. These were the slanderous representations made by Dr Strachan against so respectable a body as the Clergy of Upper Canada. The Clergy alone do not deem themselves aggrieved by these statements their congregations also, and justly considered themselves calumniated. The petitioners object to any sect being particularly selected for preference and ascendancy, and they beseech the House that Christians of all denominations may enjoy the blessings of religious liberty and according to their talent worth and knowledge, be encouraged and protected. How utterly false the statements of Dr Strachan are respecting he character and conduct of the Methodists, may be inferred from the answer he has received on his assertion that a large proportion of the members of the Assembly belong to the Church of England. The Legislative Assembly of Upper Canada have lately agreed to the effect— That the number of members of the Protestant Episcopal Church appears but very small in proportion to the number of other Christians, notwithstanding the pecuniary and rece ved by that body from the Society in England and its predecessor to the monopoly of the Clergy Reserves. This resolution was supported by twenty-seven members out of the thirty who composed the Assembly. It is a complete denial of the statements of Dr Strachan which are shown to be unfounded in every respect, and unworthy of belief. The reverend gentleman in his letter said that there was a tendency among the people of Upper Canada to follow the Church of England and on the limit of this representation, he has shown and an annual stipend to build churches for the use of only one-tenth of the population. He is acting altogether in a manner to excite the strongest feelings of the Colony against him and the Establishment to which he belongs. The peace of Upper Canada has been endangered by the conduct of Archdeacon Strachan. His conduct has produced more discontent than any other subject whatever. This reverend gentleman fills his letter with attacks upon the other religious denominations, and what has been the consequence? There is not a county in the Province that did not declare the letter to be a slander, and the House of Assembly by a majority of 37 to 3 declared it to be gross and slanderous libel on the Province. And did the Government call this man to account? No—this individual was allowed to remain and no interference on the part of the Attorney-General was made although it is Dasteels, or any person belonging to any other sect had written such a letter as that of this Archdeacon, an ex-officio information would have been instituted. This man ought not to be allowed to go on and wreak discontent throughout the Province."

A copy of the Charter having been transmitted by the Lieutenant-Governor to the Legislative Assembly its prayer soon created much dissatisfaction and were severely misunderstood on. The House ordered a copy of the Report of their Committee with the evidence which they had procured, and the Charter framed in accordance therewith to be transmitted to the Imperial Parliament, and, at the same time, adopted the following Address to the King which was passed by a majority of twelve in a House composed of thirty members:—

"TO THE KING'S MOST EXCELLENT MAJESTY

"Most Gracious Sovereign

"We, your Majesty's dutiful and loyal subjects the Commons of Upper Canada, in Provincial Parliament assembled, humbly beg leave to represent to

your Majesty, that we have seen, with equal surprise and regret, a Letter and Ecclesiastical Charter, addressed by the Honourable and Venerable Doctor Strachan, Archdeacon of York, a member of your Majesty's Legislative and Executive Councils of this Province, to the Right Honourable R. J. Wilmot Horton, Under Secretary of State for the Colonies, as they are inaccurate in some important respects, and are calculated to lead your Majesty's Government into serious errors.

"We beg leave to inform your Majesty, that of your Majesty's subjects in this Province, only a small proportion are members of the Church of England; that there is not any peculiar tendency to that Church among the people, and that nothing could cause more alarm and grief in their minds than the apprehension that there was a design, in the part of your Majesty's Government, to establish, as a part of the State, one or more Churches or Dioceses out of Almanacs in this Province, with rights and endowments, not granted to your Majesty's subjects in general of other denominations, who are equally conscientious and deserving, and equally loyal and attached to your Majesty's Royal Person and Government. In following honestly the dictates of their consciences, as regards the great and important subject of religion, the latter have never been conscious that they have violated any law or obligation of a good subject, or done any thing to forfeit your Majesty's favour and protection or to exclude themselves from a participation in the rights and privileges enjoyed by your Majesty's other subjects.

"We humbly beg leave to assure your Majesty, that the observations in the Letter against the Methodist Preachers in this Province do much injustice to a body of people and deserve no men who justly enjoy the confidence and rus the spiritual instructors of a large portion of your Majesty's subjects in this Province. We are convinced that the tendency of their influence and instruction is not hostile to our institutions, but on the contrary is eminently favourable to religion and morality—that their labours are calculated to render their people better men and better subjects and have already produced in this Province the happiest effects.

"While we fully and gratefully appreciate your Majesty's gracious intention in granting a Royal Charter for the establishment of an University in this Province, we would beg most respectfully to represent, that as the great body of your Majesty's subjects in this Province are not members of the Church of England, they have seen, with grief, that the Charter contains provisions which are calculated to render the institution subservient to the particular interests of that Church, and to exclude from its offices and honours all who do not belong to it. In consequence of these provisions the benefits will be confined to a favoured few while others of your Majesty's subjects, far more numerous and equally loyal and deserv ag of your Majesty's paternal care and favour will be shut out from a participation in them. Having a tendency to build up one particular Church to the prejudice of others, it will naturally be an object of jealousy and disquiet. Its influence on a Seminary of learning will upon these accounts, be limited and partial. We therefore humbly beg that your Majesty will be pleased to listen to the wishes of your Majesty's people in this respect and to cause the present Charter to be cancelled, and one granted free from the objections to which, emboldened by a conviction of your Majesty's pate nal and gracious feelings to your loyal subjects in this Province, as well as by a sense of duty to the people, and a knowledge of their anxiety upon the subject we have presumed to advert.

"JOHN WILSON, *Speaker*

"*Commons House of Assembly*
20th March, 1828."

The un versal excitement throughout the Province caused by the arbitrary attempt to establish a dominant Church supported by a privileged University,

amongst a people in the last degree hostile to their pretensions, at length attracted the attention of the British Government; and, on the motion of Mr. Huskisson, then Colonial Secretary, in compliance with the wishes expressed in the Canadian petitions, a Committee of the House of Commons was appointed to investigate the whole subject of the Civil Government of the Province. In the animated debate which took place on this occasion, several distinguished members expressed their strong disapprobation of the principles of the Charter of Kings College, and inveighed against the absurdity of forcing the exclusive restrictions of the English Universities upon a people who had invariably opposed the intrusion of law into the domain of conscience and religious opinion. Sir James Mackintosh the gifted philosopher, statesman, and historian, on that occasion, observed:

"Endowments may be sacred, when they are guarded by centuries of existence, and by a long and well-known system of law; but I do not see any reason for making them now, in a new land, where the religion is different from that of the Church to which they are granted. Neither do I understand the regulations which have been made for the new College of Upper Canada. I see with astonishment, that in a country where the majority of the people do not belong to the Church of England, the Professors must all subscribe the Thirty-nine Articles so that if Dr. Adam Smith were alive, he could not fill the Professor's Chair of Political Economy and if Dr Black were alive he would be excluded from the Chair of Chemistry. In short, these regulations would exclude almost all the great teachers and illustrious men of the last age, were they in existence, and that too in a country where no such thing as a Test Act is known. I do not know what will be the consequence of such an arrangement. I cannot see by what process of the human mind it can happen that the inhabitants of Canada shall like a College which in fact is to the last degree of America, which is in favour of a Church which is not of their religion. It is a bad agency. I think. Let the administration of the colony and it confirms an opinion that I have long entertained that it is not fitting for us here to make a charter for a colony which a large House of Assembly in the colony, if a faction in the colony should have made the regulations of which I complain, we ought to interfere to prevent its operation."

On the same occasion Lord Stanley the present Secretary for the colonies, thus expressed his views

"I should be ready to confirm if I were now acting on the committee, that if any exclusive privileges be given to the Church of England, the measure will be repugnant to every principle of sound legislation." "I will not enter further into it at the present moment, except to express my hope that the House will carefully guard Canada against the evils which religious dissensions have already produced in this country and in Ireland where we have examples to teach us what to shun. We have seen the evil consequences of this system at home. God forbid we should not profit by experience, and more especially in legislating for a people bordering on a country where religious intolerance and religious exclusions are unknown. It is important that his Majesty's Canadian subjects should not have occasion to look across the narrow boundary which separates them from the United States and see any thing there to envy. We should bear in mind the great plan of a liberal and comprehensive policy and be checked by none of those considerations which at home perhaps, it is necessary to observe with respect to previous interests and existing prejudices. There we may begin de novo—there we may follow the most unfettered liberality—the soundest and most prudent policy we can adopt. We may thus preserve our friendly relations with Canada,

both as the Parent State while she remains a Colony, and when, as the course of ages she becomes independent as an ally."

During the course of their investigations, the Charter of King's College was brought under the notice of the Committee and, as a modification of its provisions had been warmly urged in all the petitions from the Upper Province, the Committee took great pains to ascertain accurately the Ecclesiastical Statistics of the country. Proceeding upon the voluminous evidence which they collected from persons of unquestionable character, they reported that the most important assertions of the petitions had been completely proved, and the result of their general inquiry was to suggest many liberal views of policy and important changes in the administration of affairs. On the subject of King's College they entered cordially into the views of the petitioners, and as the Report of this Committee continued for many years to form the text-book by which the Colonial Ministers professed to be guided in transmitting their instructions to the successive Governors, it may be proper to quote from its recommendations in reference to the University.

"The attention of the Committee having been drawn to the establishment of the University of King's College at York they thought it their duty to examine the Charter granted to that College. Of the great advantages which the establishment of a College for the purposes of general education in Upper Canada, is likely to confer upon the Province, the Committee entertain the strongest convictions they lament only that the institution should be so constituted as materially to diminish the extent to which it might be useful.

"It cannot, they think, be doubted, as the guidance and government of the College is to be vested in the hands of the Members of the Church of England, that in the election of Professors a preference would inevitably be shewn to persons of that persuasion; and in a country where only a small proportion of the inhabitants adhere to that Church a suspicion and jealousy of religious interference would necessarily be created."

The Committee then go on to recommend the establishment of two Theological Chairs for the Students of the Churches of England and Scotland respectively, but with respect to the President, Professors, and all others connected with the College no religious test whatever should be required.

"That in the selection of Professors no rule should be followed and no other object sought than the nomination of the most learned and discreet persons, and that (with the exception of the Theological Professors) they should only be required to sign a declaration that as far as it was necessary for them to advert in their lectures to religious subjects, they should distinctly recognize the truth of the Christian Revelation, but would abstain altogether from inculcating particular doctrines."

It has often been urged by the High Church party that the people of Canada being unable to appreciate the advantages of the religious and intellectual discipline pursued at Oxford and Cambridge may attempt by them to interfere with the Constitution of King's College would be in the highest degree dangerous and unbecoming. Some guarantee for the safety and policy of the modifications demanded may however be found in the names of those individuals by whom this Report was framed, and on the foundation of much of their subsequent fame was formed at the revered Educational Institutions of England it is probable that

the restrictions parted their system were not overlooked. Among the Committee were Mr Hankinson Mr Wynn Sir James Mackintosh Mr Wilmot Horton the Solicitor-General Mr Vesey Fitzgerald Mr (now Lord) Stanley Mr Stuart Wortley Lord Francis Leveson Gower Mr Baring Lord Viscount Sandon and Mr Labouchere

When the Report was laid before the House of Commons Sir George Murray—a consistent Conservative and a prominent friend of the Church—had succeeded to the Colonial Department—and as he had personally visited Canada and was therefore in a position to form a fair judgement of the character of the institutions which might be best adapted to the circumstances of the country his opinions may be entitled to some weight.

"It appears," he said "that the Committee object to the Constitution of the College, and recommend that in the selection of Professors no rule shall be followed, and no other object sought than the nomination of the most learned and discreet persons. In this view I concur. I think it would not at all interfere with the religious opinions of the Students that Professors should be chosen without reference to the Christian denomination to which they belong"

The opinion of the Colonial Secretary thus frankly avowed was acted upon practically in his instructions to the Lieutenant Governor under whose notice he brought "all the points recommended by the Committee." In his despatch to Sir F. Maitland, dated 29th Sept 1828, he observed—"It would be deservedly a subject of regret to his Majesty's Government if the University recently established at York should prove to be so form[illegible] upon principles which cannot be made to accord with the general feelings and opinions of those for whose advantage it was intended" At the same time he suggested that any alterations in the Charter should be made through the representatives of the people, and in the mean time he directed that its operation should be suspended till such modification of its provisions was made. Further evidence of Sir George Murray's views on the subject of the University is obtained from a speech which he subsequently and after he had quitted office delivered in the House of Commons and in which the subject of King's College is thus incidentally mentioned —

"I have been desirous to remove as much as possible every grievance which pressed upon any portion of His Majesty's subjects, on account of their differing upon points of religious belief from the doctrines laid down by the Church of England. I wish at all times to act upon the principles opposed to those of exclusion on account of religious differences of opinion I could quote an instance indeed in which in my public capacity I carried that principle into effect A short time before I came into office as Secretary for the Colonies a Charter had been granted for founding a University at York in Upper Canada, which was to be established upon the exclusive principle of giving admission to a share in the government only to members of the Established Church I objected to this. *The principle of exclusion once recognised in Canada would be a Charter of the Crown. I learned that we would be wrong in the new world the seeds of those very evils which had given rise to so many discussions and occasioned so many conflicts in the old.* I therefore stood out and refused to establish there a College and Trust on exclusive principles, a College should be founded at Montreal,

in which no distinction should be made on account of religious differences of opinion. I was led to fix upon Montreal, partly on account of its central situation, and partly because it so happened that a sum of money had been left by a benevolent individual, for the purpose of forming a Protestant Seminary for education at that place. This sum I wished to unite with the other for the purpose of establishing a College at Montreal, for all classes. In His Majesty's Canadian subjects, without any exclusion on account of religious opinions."

When Sir John Colborne assumed the administration towards the close of the year 1828, the excitement on the subject of the University had gathered strength throughout the Province, and his Excellency soon perceived that it would be absolutely necessary for the peace of the country to effect some settlement of this irritating matter. The College Council had, in the mean time, been formed under the Charter, and as the materials of which it was composed, closely reflected the character of those who then monopolized the patronage of the Crown, the most determined resistance was made to the proposed modifications. In carrying out the instructions of the Colonial Secretary, to submit the Charter to the Legislature, it appears to the Lieutenant-Governor to be advisable in the first instance to secure the co-operation of the College Council. The influence of that body in the Legislative and Executive Councils being paramount. It was easy to foresee that any measure of a liberal tendency which might be passed by the Assembly, would be defeated in the Legislative Council — a majority of the members having seats at the Council Board of the University. Accordingly on the 13th Dec., 1828, a few days after he had entered upon the administration, his Excellency convened the College Council, and anxiously urged upon them the necessity of surrendering the Charter which had been obtained upon misrepresentation and concealment of facts. He referred them to the Report of the Select Committee of the House of Commons, which characterized the Charter as a grievance—alluded to the most recent instructions which he had received from His Majesty's Ministers to exhibit the Charter to the Legislature—invited the co-operation of the Council, in effecting the amendments, and he emphatically declared, that in the event of their assistance being withheld, on them alone should rest the responsibility, and that he would consider it as a measure to further the Institution, while the obstinate perverseness of the Clergy remained unaltered. In his speech, on opening the Parliament, 9th January 1829 alluding to his determination on the subject of the University he said "Measures will be adopted I hope, to introduce a system in that Seminary, that will open to the youth of the Province the means of receiving a liberal and extensive course of instruction."

In consequence however of the persevering resistance of the College Council, and their powerful influence in the administration, no measure for the amendment of the Charter was submitted to the Legislature and the House of Assembly, thus disappointed in the expectations, after some delay, addressed his Excellency on the subject, and with the view of possessing themselves of the necessary information requested to be furnished with a statement of the funds which had been obtained and set apart for the erection of the University, and of the appropriations made from and out of those funds. On 20th March 1829, a act of

resolutions, embodying the sentiments of the members, on the subject of the University were severally put and unanimously carried.

The importance of these resolutions, as indicating the wishes of the country at that time, is increased in consequence of the principles contained in them having been, at a later period, adopted as the foundations of a legislative measure which passed through the Assembly, but was defeated in the Legislative Council.

"*Resolved*—That this House are due to his Majesty for his gracious intentions in erecting and endowing a University in this Province;

"*Resolved*—That much erroneous information has been communicated to his Majesty's Government upon that subject, under which misapprehension this House apprehends the Charter was granted, with provisions not suited to the conditions and wishes of the people for whose benefit it was intended.

"*Resolved*—That the provisions requiring the President of the said University to be a Clergyman in Holy Orders of the United Church of England and Ireland, and to hold his office during pleasure, is highly incompetent, because in this only Seminary of general learning in the country all collegiate offices and literary rewards should be conscientiously awarded according to moral and intellectual merit, unbiassed by hopes under incompetent tenure, of what could be held forth as inducements to all candidates for academic honours, without making such honourable reward to savour on

"*Resolved*—That it is for the above reasons highly incompetent that the Archdeacon of York for the time being by virtue of his office should be at all times President of the said University

"*Resolved*—That the provision requiring the President and the seven Professors constituting the College Council to be members of the said Established United Church and to subscribe the Thirty nine Articles is highly incompetent.

"*Resolved*—That the Chancellor President and members of the Council the Professors and other teachers of the said University ought under the proper limitation of the same to be elected by a Senate composed of the members of the Council and others who have taken a degree in the said University above Bachelor of Arts having their names on the books of the College such election to be made from the graduates from the said University or from the graduates from the Universities of England Ireland or Scotland of sufficient standing in their respective Universities to be candidates for such office or trust

"*Resolved*—That it is inexpedient that the degree of Doctor of Divinity should be confined to those who subscribe to the Thirty nine Articles of the said Established and United Church but that it should be obtainable by all graduates who professing the Christian faith shall after due and impartial public examinations in the public Schools of the said University evince the classical Biblical or other learning and qualifications, proper to be acquired by candidates for such an honour

"*Resolved*—That it would be expedient if the teaching of Doctrinal Divinity were confined to the examination of the Students, by questions put by the Professor out of the Bible in the same manner as the classics in the University of Cambridge are examined upon and taught any science out of standard authors, leaving discretionary latitude to the Professors only in lecturing on biblical criticism theology evidences of Christianity sacred history, and whatever collateral branches of learning may be appointed for candidates for Holy Orders by which means would be obviated the principal difficulties apprehended from the union Professors being the instructors of Students professing the faith of different denominations of Christians.

"*Resolved*—That whatever in the said Charter in any degree gives a sectarian character to the said University, ought to be wholly done away.

"*Resolved*—That with the exception of the exclusive and sectarian principles of the unequal distribution of wealth prevailing in the Universities of Oxford and Cambridge, it is highly expedient to follow their institutions and modes of instruction, making from time to time such modifications as experience may point out.

"*Resolved*—That without the patience, disinterestedness and impartial conduct of those to whom wisdom and management the infancy of this Institution shall be confided; and without a strict observance of economy in the whole system; wealth if inducing from Great Britain and Ireland, Professors of acknowledged learning and worth, liberally paid, it can with that extravagance which would merge the rewards or honour in the sordid expectation of pecuniary gain, and without making grandeur if schemes and appearance yield to immediate practical and unpretentious utility, the University cannot gain public confidence, or realize the gracious intentions of His Majesty."

These Resolutions were presented to his Excellency with the following Address:

"We, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly request your Excellency's favourable attention to the Resolutions accompanying this Address, and we further humbly thank your Excellency for the interest your Excellency has manifested for the promotion of education in this Province in a way to feel to the widest feelings and genuine of the people."

The Lieutenant-Governor thanked the Commons for the Address and assured them that he would not fail to give immediate attention to the Resolutions which accompanied it. The Session having forthwith terminated, no further proceedings took place in reference to the University.

Before the opening of the next Session Sir John Colborne applied himself with energy, in obedience to the instructions which he had received from His Majesty's Ministers, to effect a modification of the Charter. Anxious still that this should be done with the friendly co-operation of the College Council and aware that without that co-operation any attempt to liberalize the Institution would be defeated in the Legislative Council he renewed his urgent entreaties to have the Charter surrendered. His exertions however having proved unavailing, he was at length compelled to suspend the operations of the Charter and to direct his energies to such ameliorations in the defective system of Education which then prevailed in the Province as would best remedy the evils which the obstinate conduct of the College Council might inflict on the country. In opening the Parliamentary Session on 8th January, 1830 he thus carefully alluded to the opposition which he had received from that body, and to the defective state of Education throughout the Province:

"The delay that may take place in carrying the Charter of the University, or *in framing one suitable to the Province, and to the intention of the endowment*, must, in fact, under present circumstances, lead to the advancement of the Institution, as its use depends on the actual state of Education in the Province."

The Address of the House of Assembly in answer to his Excellency's Speech, does not be illustrious to Education :

"We are glad to find that your Excellency still anticipates a modification of the Charter of King's College, which, as at present constituted, is obtruding of undue patronage, and likely to prevent scholastic qualifications, and prove equally injurious to the purity of our religion and to the liberties of our people.

"While we are willing to support a College for the education in the professions and in the higher branches of knowledge, we feel it to be a primary and more imperative duty to provide for the general extension of the means of Education among the people in every township. But we concur with the opinion expressed by your Excellency, that in general as the population is more extensive in every, a general efficiency in the Common Schools cannot be expected, particularly whilst the public salaries of the Masters, and the small remuneration which their patrons, in the present condition of the country, can afford to give, will not admit of their devoting their whole time to their useful calling.

"From these considerations we feel the aforesaid necessity and duty of securing, besides the sums already provided by law, a more equal and just distribution of the proceeds of sales from the lands reserved for Education from which resources the people have A therto derived no advantage."

The House of Assembly at the same time passed the follow ng Resolutions, declaratory of its deep sensation to resist the exclusive policy which had evinced itself on the part of the High Church party composing the Administration

"*Resolved*—That the Christians of various denominations in this Province have been deeply wounded in their feelings by the false and calumnious misrepresentations made for the purpose of establishing an exclusive and proscribing system which it has hitherto been attempted to strengthen and extend by rendering subservient to it the patronage of the Executive Government and the unjust appropriation of the School Reserves for the support of a University, upon the sectarian character of which this House can never cease solemnly to protest as they already have done

—*Resolved*—That there justly exists in the minds of the people of this Province, a strong and settled aversion to a dominant Church connected with Government and upheld by that Government in its claim to a monopoly of the Clergy Reserves, and to the enjoyment of peculiar privileges to the exclusion and prejudice of various denominations in this Province.

Notwithstanding the symptoms of weakness and insufficiency which frequently exhibited themselves in Sir John Colborne's administration of the Government, it is but just to admit that his personal views and designs, when unobstructed by the influence of the baneful oligarchy which at that time incubated on the Province, evinced a sincere desire for the prosperity of the country. To the cause of education in particular he devoted much of his attention and energy and it is probable that he might have succeeded in effecting a considerable amelioration of the defective system which then prevailed, had his plans not been frustrated and overruled by the illiberal and fatal opposition of Dr Strachan and his intolerant party. The provisions which had been from time to time made by the Legislature for the diffusion of instruction among the people were rendered completely nugatory by A the schemes, which the Archdeacon of York in a moment of inordinate vanity divulged to the Society for the Propagation of

the Gospel. He had truly been "*instrumental in establishing a scheme in Canada, by which the education of the whole population was virtually under the direction of the Church*,"—and from which, he might have added, the people generally derived scarcely a larger amount of benefit than the pleasure gratification of seeing the pecuniary necessities of the Venerable President of the Educational Board relieved by an annual stipend of £1[illegible] from the Parliamentary grant. It formed no part of "the scheme" of this fraternal patron of learning, to permit any of the clauses who contributed so largely towards the maintenance of the Schools to participate in their superintendence. The exclusive control was monopolised by the members of the Episcopal Church, and the appointment of Trustees from one communion alone had occasioned so much jealousy and bitterness, that the Schools had sunk into a deplorable state of inefficiency which reflected deep disgrace upon the Province.

Sir John Colborne was fully alive to the defects and corruptions under which the system laboured, and to the absurdity of establishing a University for the higher branches of learning, while the children of the yeomanry were exposed to the evils and dangers of almost unmitigated ignorance. It was indeed abundantly apparent that the country, as it then existed, would derive a greater amount of benefit from the general diffusion of the means of instruction, and that the objects of the Royal Grant would be more effectually promoted by a liberal education could be placed within the reach of the people than if the endowment were applied to the establishment of a great metropolitan seat of learning for which the youth of the Province were not fitted by a proper preparatory course. The first efforts of the Lieutenant-Governor were therefore directed to an extension of the Common and District Schools and to a more liberal system of management and tuition. But these benevolent designs did not meet the approval of Dr Strachan and his party, and his Excellency was compelled to succumb to their superior influence. Unwilling, however, to relinquish his plans altogether he took an intermediate course, and submitted to the College Council a proposal for the establishment of an Academy of a superior class at York, which might at least prepare the children of the higher ranks for the advantages of the University. This proposal having met with no opposition, his Excellency by Message submitted his plan to the House of Assembly

"The Lieutenant-Governor has no doubt that it would be deservedly a subject of regret to his Majesty's Government if the principles on which the University is founded cannot be made to accord with the *general feeling and opinion of those for whose advantage it was intended*, and he believes that the first change in the Charter which should be recommended, and which would confer more than any other to its becoming eminently useful to the Province, is the connecting the Royal Grammar School with King's College in such a manner that its Exhibitions, Scholarships and chief support may depend on the funds of that endowment

"The advantages that will result from an Institution conducted by nine or ten able masters, under whose tuition the youth of the Province could be prepared for any profession are indisputable, and if such a School were permanently established, and *the Charter so modified that any Professor shall be eligible for*

the Council and that the Students in the College shall have liberty and faculty of taking degrees in the manner that shall hereafter be directed by the statutes and ordinances framed by his Majesty's Govern ment, the University must flourish, and prove highly beneficial to the Colony."

This proposal having been acceded to, the Royal Grammar School was superseded and Upper Canada College was opened on 4th January 1830 for the purposes of tuition. An endowment of 10,000 acres was afterwards procured for its support from the residue of the general School Lands, together with the site of the College and some valuable town lots, and by means of the aggregate funds that were expected to accrue from these sources and from the fees payable by the Students, it was fully expected that under a proper system of management, a sufficient income would be derived for the proper maintenance of the Establishment. How far these expectations have been realized will form a matter for future enquiry.

CHAPTER IV.

THE AMENDED CHARTER.

The reform of the University now became intimately connected with another question which had already created much excitement and irritating discussion, and which was destined to have a matter of influence on the future peace and welfare of the Province. By the Imperial Act 31. Geo. III. ch. 31. the seventh of the granted lands in Upper Canada had been set apart for the support of a Protestant Clergy. This ecclesiastical provision had under the phrase of "a Protestant Clergy" been heretofore limited by the Government to the United Church of England and Ireland. A claim was at length put in by certain members of the Church of Scotland to a share of the provision, and this claim was afterwards assumed and resisted on by the other Protestant denominations in the Province. The appropriation by the Government exclusively to one Church or the extension of it to others thus became a question of almost absorbing public interest. The House of Assembly repeatedly offered strong remonstrances against any favour or assistance on the part of the Government to one or more religious denominations which was not equally bestowed upon all; and the principles of religious supremacy and exclusion involve of the Church of England contained in the Charter of the University, appeared to the members of that body as a part of a system conducive to the extension and perpetuation of an oppressive policy, inconsistent with that perfect equality of rights and privileges to which it was thought Christians of all denominations in the Province were entitled. In conformity with these views the Assembly on 12th March 1831 caused the following address to be prepared and transmitted:

"TO THE KING'S MOST EXCELLENT MAJESTY

"Most Gracious Sovereign,—

"We, your Majesty's dutiful and loyal subjects the Commons of Upper

Canada, in Provincial Parliament assembled, beg leave most humbly to submit to your Majesty, that by an Act of the Parliament of Great Britain, 31st Geo. III., one-seventh of the lands of this Province was set apart for the support of a Protestant Clergy

—That under that act appropriations have from time to time been made, and which appropriations are in this Province known by the name of the 'Clergy Reserves';—that these appropriations having been generally made in lots of two hundred acres throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country, and principally from the improvement of the lands in the neighborhood of such appropriations, by the labour of inhabitants composed of various denominations of Christians;—that these Reserves being so interspersed with the lands of actual settlers, have materially retarded the improvement of the country;—that by an act passed in the reign of his late most gracious Majesty, guarantees was made for the sale of a portion of these Reserves;—that it is hoped, as well as impolitic, to appropriate the said lands to the support of any one Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants;—that a large majority of the inhabitants of this Province are sincerely attached to your Majesty's person and government, but are averse to the establishment of any exclusive or dominant Church;—that this House feels confident that to promote the prosperity of this portion of your Majesty's dominions and to satisfy the earnest desire of the people of this Province your Majesty will be graciously pleased to give the most favourable consideration to the wishes of your faithful subjects—that to eradicate the jealousy and dissension which have hitherto existed on the subject of the said Reserves, to remove a barrier to the settlement of the country and to provide a fund available for the promotion of Education it is extremely desirable that the said lands, so reserved be sold, and the proceeds arising from the sale of the same placed at the disposal of the Provincial Legislature to be applied exclusively for that purpose We therefore humbly pray that your Majesty will be graciously pleased to recommend to your Majesty's Parliament of Great Britain and Ireland to pass an act to authorize a sale of the Clergy Reserves remaining unsold and to enable the Legislature of the Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of Education

—We also most hereby beg leave to submit to your Majesty that while we fully appreciate the gracious intention of our late revered Sovereign to promote educat on by granting a Royal Charter for the establishment of a University in this Province we feel bound on us to represent, that as the great majority of your Majesty's subjects in this Province are not members of the Church of England it is matter of regret that the Charter contains provisions which are calculated to exclude from its peculiar offices and honours, all who do not belong to that Church.

—In consequence of these provisions, the benefits of the Institution will be confined to a few members of one religious denomination while others of your Majesty's subjects, equally loyal and deserving will be excluded from participating in advantages which should be open to all. In addition, as a Seminary of learning on this account must be looked and will be looked upon with jealousy by a large majority of the inhabitants of this Province. We therefore humbly pray that your Majesty will be graciously pleased to cause the Charter of King's College to be cancelled and to grant another free from the objections to which our duty to the people of the Province has advised us to assert

This address was transmitted to the King by Sir John Colborne who, on

receiving at time announced to the House his instructions on the subject of the University

Gentlemen —I will forward this Address to the King immediately It may, however, be satisfactory to you to receive the information that I have reason to believe that all the exclusive provisions considered exceptionable in the Charter of King's College have been cancelled or that such arrangements have been decided on by his Majesty's Government, as will render further application on this subject unnecessary.

"A Charter solemnly given cannot be revoked without much delay and circumspection but his Majesty's Ministers have long directed their attention to the great advantages which the Province will derive from an University being established on principles that may be approved of by every good and enlightened person"

Meanwhile the excitement on the subject of the University continued unabated throughout the country At a public meeting held at York on 10th December 1830 a Petition to the British House of Commons was adopted, and before being transmitted received upwards of 10,000 signatures. This Petition embraced the subject of the Clergy Reserves, and prayed a modification of the Charter of King's College established at York in Upper Canada so as to exclude all sectarian tests and preferences, and to appropriate the proceeds of the sale of lands heretofore set apart for the support of a Protestant Clergy to the purposes of general education and various colonial improvements.

An Agent was appointed to carry this Petition to London, and on the occasion of its being presented to the House of Commons, Sir George Murray observed,—

"I trust that the sentiments which I have always entertained upon the subjects to which this Petition relates are sufficiently well known to the House. *I consider that nothing can be more unfortunate for any State than that political distinctions should be founded on differences in matters of religion. I believe that those distinctions can never arise except when religion has been made subservient to the selfish interests and to the unholy passions of men.* I agree entirely in the object on which has been taken to that part of the Charter of King's College which introduces a distinction on the score of religion While I was in office I suspended the operations of the Charter, *having at the consideration to abolish entirely that distinction and had I remained in office I should certainly have done so*"

Copies of the Canadian petition to the House of Commons and of the proceedings and resolutions of the House of Assembly were at the same time laid before the Colonial Secretary

These proceedings had the effect of turning the immediate attention of the British Government to the danger of the exclusive policy which had been pursued under the erroneous statements and evil counsel of the Archdeacon of York His Majesty's Ministers at once saw the necessity of concession, and endeavoured to retrace the false step that had been made, by giving their formal sanction to the modification which had been proposed by the Assembly With this view his Excellency Sir John Colborne was instructed to bring the matter before the College Council and to insist upon a surrender of the Charter in order that it

might be modified by the Provincial Parliament, in such a manner as would adapt it to the situation of the country and the wishes of the people.

Acting upon these instructions, the Lieutenant-Governor convened the College Council on 2nd November, 1831, and laid before them a Despatch from Lord Goderich, then Colonial Secretary—in which his Lordship referred at considerable length to the original purposes of the grant, and the design of the British Government in establishing a University. He observed that "it is greatly to be regretted that *any* thing in the constitution of the establishment should have tended to counteract, if not defeat this laudable design, and practically deprive the Province of the advantages contemplated." "It cannot be denied," he continued, "that the exclusive and restrictive character given to King's College University has had this effect." His Lordship then alluded to the suggestion of the Committee of the British House of Commons in 1828, which had been transmitted by his predecessor in the Colonial Office, with the view of their forming the basis on which the constitution of the University should be established, and he earnestly recommended that the course then advised by his predecessor should now be pursued. He also signified his approval of the Resolutions adopted by the House of Assembly in 1830 referred to in the preceding chapter, and insisted that the College Council should immediately surrender the Charter that it might undergo such modifications as the Parliament of Upper Canada should determine, but in regard to such surrender he pledged himself to the Council that the endowment should be applied to no other purpose than that of education.

The advice thus frankly offered and the request contained in the despatch of the Colonial Secretary, were obstinately declined by the College Council who, in a lengthy report framed in answer to the despatch maintained their position with a reckless temerity which at the present day might excite surprise were the fact not sufficiently explained by the overwhelming influence which its members possessed in the Executive and Legislative Councils of Upper Canada. Hitherto the obstacles interposed by the College Council—who had been long the prominent leaders of the High Church party—to the diffusion of general instruction had proved most disastrous to the country. It was quite obvious to every one that the concession on of means accruing from the grant to endowments as exclusive been nary benefical only to a few so long as the elementary Schools owing to the unparalled vetoes of their endowment from causes beyond control were in a state of comparative destitution, was a proceeding not only inverting the *onus* of the entire scheme, but eminently calculated to create a dissatisfied and invidious feeling on the part of a large portion of the community. So long indeed as persons were wanting to confer elementary instruction commensurate with the increasing demands of the country the prominent formation of a metropolitan seat of learning irrespective of its exclusive character and constitution, was viewed with jealousy and disfavour even by those who, under more propitious circumstances, would have hailed its establishment and would have been well satisfied to see it in active operation. The functions of the General Board of Education—which for nearly eight years had been a label on the name that it bore—ceased in 1832 and

with its demise the salary of the Venerable President, which during the same period had yielded him no less a sum than £2,2[illegible], also ceased to be exigible. The Archdeacon of York, however, whose genius was ever fertile in expedients, and whose zeal in the cause of education has always borne an affectionate approximation to the pecuniary advantages which he has derived as a "Patron of Learning," naturally directed his restless energies to the University, as a compensating source of emolument. Holding the office of President with the exclusive honour of being the only salaried member of the Council, he regarded with dismay every modification of the Charter which could have the most remote tendency to endanger his sinecure, an effect by no means unlikely to have followed from the obnoxious [illegible] the Dissenters to a share in the government, and a consequentious administration of the affairs of the Institution.

So long as this serious obstacle remained, all conciliatory attempts to obtain the consent of the College Council to the modifications required by the people of Canada signally failed, and the Colonial Secretary at length became convinced that no concession would be made to which the Council were not driven by the last necessity. The Archdeacon of York had previously distinguished himself as an energetic and powerful opponent to the formation of the Canada Company, and although his zealous interference its operations had been essentially retarded it was at length however agreed on the understanding that his personal opposition to the Company should cease that an annuity of £1,000 for 16 years should be given from the funds of the Company in aid of the University Buildings This grant had been paid for four and a half years but was suspended by Lord Goderich—who penetrated the design of the College Council to maintain their position so long as they were provided with available funds,—until the Legislature should pass a Bill amending the Charter In the despatch of 6th July, 1832, by which he suspended the grant from the Canada Company he placed the remodelling of the University entirely in the hands of the Provincial Parliament. Whose claim he distinctly recognised to exercise the management of the territorial grants so granted for the purposes of education it being assumed from their having in questions of this nature the deepest share of interest that they are therefore the most competent to judge of what is best adapted to the progressive wants and wishes of the community which they represent." His Lordship further observed that "*when a change of this nature is deemed by the inhabitants themselves, and is called for by an address from their representatives, I am of opinion that if there were nothing else to be considered then the accomplishment of the immediate object it would be desirable to comply with wishes which have been so expressed*" Beyond saying that the funds of the endowment thus placed at the control of the Provincial Legislature should not be diverted from their governing object—the promotion of education—Lord Goderich did not think it expedient to prescribe any set regulations for the practical application of those funds his Lordship observing "that it would be worse than useless to destroy the grace of the concession which had been made by attempting to clog it with objectionable conditions"

The Despatch from which the above quotations have been made, was marked "Confidential" but if any doubts remained as to the intention of the British Government on the subject of the University they were satisfactorily removed by Lord Goderich's celebrated Despatch to Sir John Colborne, of 8th November, 1832, which was laid before the Provincial Parliament. In reference to a proposal which had been made to place King's College on the list of exemptions enjoying the elective franchise, his Lordship thus expressed himself:—"You will observe that I do not here refer to an University constituted in the manner proposed in the original Charter of Incorporation. Every man in Canada, however, knows, *that so far from any anxiety having been felt by the King's Government to abandon that Charter against the wishes of the great majority of the people, every possible measure has been taken to refer to these Representatives the decision of the question, in what form and upon what principles the College should be founded.*" And in the same Despatch, after repudiating a policy which would consign the children of the peasantry to ignorance, lest knowledge should render them independent in action and in thought, his Lordship proceeds:—"On the contrary, there is no one object connected with every part of his Majesty's dominions which his Majesty has more at heart than the diffusion of sound knowledge in the legitimate and most enlarged sense of that term. This is not merely the first and highest interest of society but is essential to the right use and peaceable enjoyment of every other civil and social privilege." And he thus points to the constitutional remedy for the abuses of King's College, which his Majesty's Ministers were now most anxious to see relieved of every sectarian restriction:—

"*The Legislature of Upper Canada have already been called to consider in what manner the University can be best constituted for the general advantage of society*, and His Majesty has studiously abstained from the exercise of his undoubted prerogative of founding and endowing Literary or Religious Corporations, until he should obtain the advice of the Representatives of the people for his guidance in that respect." "All minor distinctions should be merged in a general union for this important end (the diffusion of Education), and at the head of that union the local Government should be found encouraging and guiding, and to the utmost of its power assisting all the efforts which may be made to create or to foster a taste for intellectual enjoyments and pursuits." "Confident I am of your own concurrence and in that of the members of the Legislature in those views, *I cheerfully remit to you and to them the office of originating the necessary plans for reducing the general principle into a definite shape*, requiring of yourself in the first instance only, that you should quicken the attention of the Legislative Council and Assembly to this subject, should you have reason to apprehend that it is in danger of being overlooked or forgotten."

In opening the Parliament on the 19th November 1833, His Excellency Sir John Colborne thus communicated his instructions to the Legislature:—

"The important subject of public education, which has at several Sessions occupied much of your attention, demands your early notice and consideration, particularly the questions which relate to the revision of the system of Township Schools—the application of the proceeds of sales of School Lands for the support of superior District Schools, and the requisite extension of the Royal Charter

under which the University is at present established. With respect to those points, and the immediate course which you may suppose to ensure the opening of the University, sanctioned by a Charter framed on more comprehensive principles than that which has been granted, there can be no doubt, that as the Province is fully prepared to reap the benefits which were intended to be conferred on it by the establishment of King's College,—*His Majesty will readily give effect to any measures proposed to you regarding its future government*, and the appropriation of School Lands that may tend to promote the purposes of the Institution, or add to the advantages which the Colony, under the blessing of Providence, enjoys, by facilitating the diffusion of Education among all classes."

To this address, the House of Assembly answered that they would "use diligence in considering and entering the requisite extension of the Royal Charter under which the University is at present established: and His Excellency's assurance, that His Majesty will readily give effect to any measures proposed by us regarding its future government, and the appropriation of the School Lands to meet the purposes of Education, is an additional proof of His Majesty's paternal care for the advancement of the most important interests of his subjects."

No Legislative measure affecting the constitution of the University was introduced into the Assembly during this Session, but at length in the Session of 1834-35, a Bill to amend the original Charter was framed upon the principles contained in the Resolutions of the House in 1829, which had received the approval of the Colonial Secretary

This Bill proceeded on the preamble that,—Whereas his present Majesty has been graciously pleased to signify through His Majesty's principal Secretary of State for the Colonies, Earl Bathurst by his despatch of the 8th November 1830, communicated to the Legislature by His Excellency by message, that no fair room any anxiety having been felt by His Majesty's Government to maintain the said Charter against the wishes of a great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question in what form and upon what principles the said College should be founded" The Bill then declared that from henceforth it would not be necessary for the President and Professors to be members of the United Church of England and Ireland or that they should subscribe the Thirty-nine Articles:—That the Council should consist of twelve persons one half of whom should be nominated by the Legislative Council and the other half by the Legislative Assembly and that they should hold their office for four years:—That the College Council should elect the Professors, Tutors, and Lecturers:—That the College Council should make rules and ordinances for the government of the University subject to the approbation of the Chancellor:—That no rules or ordinances should be passed by the Council imposing on the Professors Tutors, Lecturers, Scholars, Graduates, under-Graduates, Students, Servants, or others any religious form or mode of worship or in any way whatever restraining them from attending on the Sabbath whatever place of religious worship they chose:—That no religious test or qualification whatever should be required of the Chancellor, President Professors Tutors Lecturers, Scholars, or other persons being candidates for any situation or honour in the College:—That there should not at any time be allowed

to be within the College any public Professor, Lecturer, or Teacher of Doctrinal Divinity, according to the Articles of Faith professed by the United Church of England and Ireland, or according to the Creed or Faith of any other Christian or Religious Church whatever:—And that the College Council should not apply any of the funds belonging to the University to the support of any public Professor, Lecturer, or Teacher of such Divinity

The Bill was carried through the House Assembly by a majority of 32 to 5. Among the majority were nine members whose views on other subjects were directly opposed to those of the liberal party, but so strong was the feeling throughout the country in favour of the measure and so convinced were the members themselves of the flagrant injustice of planting exclusive educational Institutions among a varied a population as Canada contained, that the various resolutions submitted to the House, in successive Sessions and Parliaments, had been adopted with all but perfect unanimity The delay that took place in effecting their object was occasioned solely by the obstinate resistance made by the College Council and total indifference of the local Government to popular opinion. The influence of the Executive in the Legislative Council was such, that the persons composing that former could at any time either put a stop to the most wholesome measures, or forward to the utmost extent the sectarian interests of any party whom they wished to favour The Executive and Legislative Councils were indeed two bodies in name but one in fact— in persons composing the one he ng the majority in the other—and each being at its respons ble to the country Under such an administration and antagonism of principles and interests le the different branches of the Legislature it was utterly impossible that the system of Civil Government could effectually promote the prosperity of the Province or that wholesome measures could be passed suitable to the wants and happiness of the people. The history of the University of King's College shews that the British Government had no wish to govern Canada, but in accordance with the wishes of the great majority of the people, where these wishes were perfectly known and understood but the proper influence of the British Government was at that time comparatively useless and the successive Governors after a brief show of resistance tamely submitted to the absorbing influence of the local oligarchy In this manner the Bill for opening the University to all classes and denominations although urgently and almost unanimously demanded by the people, was destined to share the fate of almost every other measure of a popular character It was thrown under the table of the Legislative Council and the ardent expectations of the country were disregarded with the reckless and flerence of a party long habituated to trample upon popular rights

The arrival of Sir Francis Bond Head in 1836 and the general tenor of his instructions again excited the hopes of the friends of popular Government. The distinct recognition which those instruct ons contained of the right of the Provincial Parliament to legislate on the subject of the University and the desire avowed by the British Government to have the Educational Seminaries adapted to the circumstances of the country afforded the highest gratification to the friends of

Education. Respecting the Collegiate Institutions of the Province—a complaint having been made by the Assembly that Upper Canada College was upheld at great public expense, with high salaries to its principal Masters—Lord Glenelg observed in his Despatch of 9th December, 1835:—

"His Majesty's Government can have no wish to retain any charge on this Establishment, which may be more than adequate to provide for the effective performance of the duties of the Teachers. Any wise retrenchment of that nature may, subject to the principles already mentioned, be immediately introduced. That the Province derives little benefit from this College, is a fact of which the explanation is to be found, not in the principle of the Institution itself, but in some error of management, since, this, as it should seem, of an easy remedy.

"On the subject of King's College,—an unfortunate difference of opinion exists between the Council and the Assembly, which each of those bodies appears to persevering incurable.

"His Majesty commands me to tender, through you, his sentiments on this subject. With the previous assent of both Houses, the King will cheerfully entrust the consideration of the question, in what manner a Charter could be most conveniently prepared, so as to promote the interests of Science and Literature, and the study of Theology and Moral Philosophy, with due regard to the opinions which seem to prevail in the Province respecting the proper constitution and objects of an University. But after having distinctly referred to the Local Legislature the duty of giving effect to their own wishes on the subject, *in the form of an Act of General Assembly*, his Majesty cannot, at the instance of one only of the two Houses withdraw it from that Legislature."

Lord Glenelg's instructions to the Lieutenant Governor were laid before the Assembly but events of a more pressing nature soon absorbed the attention of the Province, and the subject of University Reform was for a time laid aside. The contest between Sir Francis Head and the House of Assembly respecting the responsibility of the Executive Council created a serious rupture which ultimately led to the refusal of the supplies, and terminated in the dissolution of Parliament. Whatever the real merits of that contest may have been, it is certain that as consequences of the extraordinary course then pursued by the Lieutenant Governor, the tone and character of the next House of Assembly did not reflect the true state of popular feeling on many of the important questions which had previously agitated the country. No change had exhibited itself in the sentiments of the people on the subject of the University but the elections had been decided on a question of a more exciting character—visionary indeed, if itself not sufficiently plausible to afford available capital for Government agitation. The question of "British Connexion" was represented as depending on the votes of the electors at the Hustings—and so successfully was the country deluded by a mere fiction respecting treck of the Government that many ardent dupes whose loyalty would otherwise have been far above suspicion were deprived of their seats on account of their strenuous maintenance of popular rights. Notwithstanding the personal aversion however entertained by the majority of the new Parliament to interfere with the Charter of the University the necessity of some alteration in its constitution was forced upon them by the prevailing sentiments of the country and the modifications effected, however reluctantly admitted and injudiciously

made at least settled the great principle for which the people had so long and unanimously struggled—the right of all classes and denominations to a full and free participation in the benefits of the Institution.

In November, 1836 a Committee consisting of Messrs. Draper, Burwell, Aikman, Sherwood and Cameron were appointed to frame a Bill which would meet the demands of the country without being obnoxious to the illiberal principles of the Legislative Council. The Committee accordingly reported a Bill to amend the Charter of King's College, and as the principle upon which this measure was framed will claim some importance in the argument which is proposed in a subsequent chapter, to deduce from this historical sketch which has been given, it is proper to quote the principal enactments.

After reciting the original Charter, the Bill enacted that the Judges of his Majesty's Court of King's Bench should for and on behalf of the King be Visitors of the College, in the place and stead of the Lord Bishop of the Diocese of Quebec, for the time being, and that on the President of the said University on any future vacancy shall be appointed by his Majesty, his Heirs and Successors, *without requiring that he should be the Incumbent of any Ecclesiastical office*, and that the members of the College Council including the Chancellor and President, shall be twelve in number, of whom the Speakers of the two Houses of the Legislature of the Province and his Majesty's Attorney and Solicitor General for the time being, shall be four, and the remainder shall consist of the five Senior Professors of Arts and Faculties of the said College, and of the Principal of the Minor or Upper Canada College, and in case there shall not at any time be five Professors as aforesaid to the said College and until Professors shall be appointed therein, the Council shall be filled with members to be appointed as in the said Charter is provided, *except that it shall not be necessary that any member of the College Council to be so appointed or that any member of the said College Council or any Professor, to be of any term appointed shall be a member of the Church of England or subscribe to any Articles of Religion other than a declaration that they believe in the authenticity and divine inspiration of the Old and New Testaments, and in the doctrine of the Trinity* and further, that no religious tests or qualification be required or appointed for any person admitted or matriculated as Scholars within the said College or of persons admitted to any degree or faculty therein."

The Bill passed both Houses of the Legislature without opposition, and received the Royal Assent on 4th March 1837.

The principle of perfect religious equality among Christians professing the doctrine of the Trinity thus recognized by the Legislature in the abandonment of the Episcopal test in the Annandale Charter was supposed to have terminated the struggle for religious freedom in this great educational institution. The University was satisfactorily divested of the Episcopal character imposed upon it by the original Charter and the special claim of any religious denomination to exclusive privileges and provisions was intentionally barred. Unfortunately for the

Institution the individual, who so violent hostility to popular freedom and the rights of conscience, will give to his name an unenviable prominence in the civil and religious annals of this Province, was left by the Amended Charter at the head of the management, and thus the struggle which the people fondly believed to have been terminated by the safe position of Parliament was renewed and maintained with hostility undiminished, and zeal and energy as persevering as ever on the part of those whose duty it was to carry the Constitution which the University was finally established into operation. The supposed termination of the public contest for principle, which appeared to make a full recognition of the rights of all denominations of Protestant Christians was a mere truce, that the battle might be fought on different ground. The scene of operations was merely changed from the Parliament of the Province to the Council Board of the University. But before we transfer the combatants to this new arena, in which some remarkable manifestations of character have been made, it is befitting that we briefly review the ground over which we have travelled.

We have given a concise history of the University of King's College, the intimate connection of that institution with the existing questions of education and religion which have for so many years disturbed this Colony, and could have been exhibited more fully than the pretensions of the present sketch have permitted. And this might easily have been done by setting forth on the one hand the contemporaneous struggles of the people to obtain for themselves absolute freedom of thought and action in matters of faith and government, with equal advantages to Christians of all denominations so far as education and civil rights were involved; and on the other the attempt, rashly and sternly persisted in by a dominant conquest, to introduce and perpetuate in this Province a dominant Church and a negative persecution of what that Church chose to denounce as heterodox.

When the Clergy Reserves were set apart, it is possible that the formation of a dominant Church established on the model of the Church of England may have been intended—and had such an intention existed it would appear to us only as the natural offspring of the state of religious intolerance, which pervaded almost all nations of Europe, where for centuries past religious struggles were not for equal by but for domination: and where each sect willed even professing toleration, sought either to maintain itself in the national Church or to reform that Church to its own model. The Presbyterian form of worship and doctrine, after a futile attempt to force itself upon England, received into the Church of Scotland and left Protestant Episcopacy the national English religion. The same Sovereign, from the necessity of the case, became the earthly head of two antagonist Churches, sworn to preserve and maintain them both: and when the question arose as to what should stand in the place of a national Church in this Province, the Church of England as by law established may have been solely intended, or the national Church of Scotland as equally by law established, may have been contemplated as co-existent with the Church of England. At all events the law in setting apart the Clergy Reserves for a "Protestant Clergy"

left the matter entirely open But the Church of England decided the question for herself that she had exclusive claim to a true Protestant Clergy and thus got possession of the appropriation.

The original claim of the Church of England to the School Lands did not indeed rest upon the *prima facie* title by which she manifested her right to the Clergy Reserves. For it that case the endowment was placed in the hands of the Legislature for the purposes of *general* education—while in the former it was granted with a restriction which seemed to favour her pretensions Her claim to the School Lands therefore could only be maintained on her assumed right as an Established Church to have the exclusive direction of popular education.

The first attempt at resistance to her monopoly of the Clergy Reserves arose on the part of the members of the Church of Scotland in Canada who claimed that the Clergy were Protestant—and not only Protestant but actually so *as by law established*. Both the contending parties forgot that it was the people of England, and the people of Scotland respectively who after many years of bloody contention established their Churches in their respective kingdoms—and that what should thereafter be the national Church in the American Colony, if it should ever have one depended not upon the will of the British Parliament, but upon the faith and deeds new which should be adopted by the future Colonists on their own behalf Happily very happy for Canada the claims of the Scottish Church, though strongly advocated in England, were too weak to prevail against the influence of the Archbishop of York The conflict between the rival Churches created sufficient noise to awaken at length those who belonged to neither, and these latter naturally enough asked themselves whether they wanted a national Church at all The Scottish Church being considerably the weaker was baffled in the fight, and found the independent sects in a combined attack upon the supremacy of Episcopacy and eventually a national religion, or in other words a form of religion conferring exclusive rights or advantages upon its adherents became to most intents and purposes a shadow or an empty name.

The High Church party among the Episcopalians, instead of maintaining that the Church of England existed here as a national Church and that therefore the support granted by Parliament for a Protestant Clergy belonged to this Establishment contended that the Clergy Reserves were granted and consecrated indefinitely to the Church of England as such in this Colony—and for the Clergy they claimed as grantees the whole benefit of the Reserves. The question was mainly debated in this form—but in this shape the real point was avoided And as the question has an important bearing on the claim which the Episcopal Church has set up to the exclusive control of the University, we shall endeavour to place it in its true shape with such illustration as may be necessary to shew our meaning

We hold that any people may by means adopted to their form of Government, erect and endow a national Church. This national Church may be Roman Catholic, and may become *Protestant Episcopalian* or Presbyterian or Methodist, according to the will of the nation constitutionally expressed. And by a party

of reasoning, as the Church may, in a legal point of view, change its doctrine and still remain a national Church, so the same power which created it, may create many co-existent national Churches, or it may do without any national Church whatever.

At the Reformation in England, besides the confiscations of property appropriated to the Church and taken for state purposes—which confiscations we are not obliged here to defend or condemn—the ecclesiastical sinecures throughout the land were filled with Protestants in the room of Roman Catholics. The appropriations were originally made for the national Church,—not for the Roman Catholic Church,—and the property being national and not Roman Catholic, it continued without wrong in the national Church when it became reformed, and with that reformation forsook the Church of Rome. The result not have been the same had the property attached to the doctrine, or had it been considered in the light of an estate vested *in the Roman Church as once established in England*.

In the same manner in Scotland Episcopacy and Presbyterianism held Church benefices alternately as either prevailed: but the benefices have continued national and have followed the Church to this day.

Now it is very plain that had England and Scotland contained so many religious persuasions, upon terms of equality or nearly so as regarded numbers and wealth as to make it impossible for any one to establish a supremacy the national Church property could not have continued with any one sect. There must in fact have been many national Churches, or no national Church at all.

As regards the Province it may have been the intention of King George III., or of his Majesty's Parliament or of his Ministers, that the people of Canada should be all of the faith of the Church of England or that some portion should profess the doctrines of the Church of Scotland, and that the Canadian Protestant Church should consist of one or both, as a National Church, but it is clear that events did not fulfil the intention. The people of the country through a diversity of causes became divided into many religious communities, no one of them having sufficient predominance in numbers or influence to be the Church. The Upper Canada Legislature repeatedly desired to have no such Church and they prayed—as they had a right to do—that the Clergy Reserves should be appropriated to secular education.

By the late division of the proceeds of Clergy Reserves among different religious denominations, the principle has been established in Canada as regards state support—not that there should be no Church, but that there should be many Churches—and as regards any exclusive privileges or monopoly of civil advantages, we have not, thank Heaven in Canada, a vestige of a dominant Church, except in the University of King's College.

As all Church endowment from national funds is for the religious instruction of the community—however the faith or doctrine may change or vary—so as all public endowment for educational purposes liable to be modified for the benefit

of the people to be instructed and as an endowment made in Romish times was not one necessarily attached to the Roman Catholic faith, neither is a public endowment for educational purposes—supposing even that it had originally provided for religious instruction in a particular faith—a grant to the professors of that faith, but a grant for a public purpose which must be liable to modification so as to serve the end for which it was originally appropriated.

The University of Oxford once taught the Roman Catholic faith: it is now the chief source of religious education for a Protestant Church. Could this have been so with any regard to justice had the endowment been held to be Roman Catholic, and not national?

The late Clergy Reserve Act is based upon the principle not merely of religious toleration—but of perfect religious equality. Whatever inequality may exist in the distribution of the funds, the principle is preserved in all its integrity. We look upon the passing of that Act as a great event in the establishment of religious freedom; not the less valuable because it was not accomplished through blood and violence; but there yet remains after the wreck of Church predominancy—the wretched attempt of the Council of King's College to impose the Episcopal Church with the attributes of an exclusive education at the public expense—and when that Institution is made *public* and united for public purposes, and not a mere appendage to a Clergy can hatch their schemes of Church predominancy—Canada then—and not till then will have religious freedom with absolute religious equality.

But in the settlement of what the character of King's College should finally be this strange anomaly exists. King's College *de jure* is entered formally an establishment for the education of the Canadian people. *De facto* it is an exclusive institution for the education of a mere section professing the doctrines of the Church of England. Abstractedly the principle of religious equality has been determined by the law—while practically religious predominancy has been imposed by the Council. The obvious conclusion is—not that the principle established by the Legislature should be changed—but that the parties who have perverted the law and insulted its majesty should be superseded. The remedy is one which the law, even without loyalty, would daily applies towards those who have betrayed their trust and frustrated its purposes. In this case the principal object of Parliamentary interference will be to restore public confidence in an Institution whose purposes have been scandalously perverted by its Trustees.

CHAPTER V

THE ORIGINAL COUNCIL

The original Charter ordained that the Corporation called or known by the name of "the College Council" should consist of "the Chancellor and President of the College for the time being" and of "seven of the Professors in Arts and

Faculties," and in order to provide for the management of the University by the formation of a Council previous to the appointment of Professors, power was given to the Chancellor "to appoint seven discreet and proper persons resident within our said Province of Upper Canada, to constitute jointly with him the said Chancellor and President of our said College, for the time being, the first or original Council." It was also declared that such persons should vacate their seats at the Council Board immediately on the Professors being appointed.

The proceedings of the Council under the original Charter, so far as connected with the public history of the University, have been incidentally noticed in the preceding chapters. In the meantime all that body are to be found all the obstacles which were thrown in the way of the Parliament and the people in their long and arduous struggle for equality of rights in the University as a national School of learning and science. Compelled at length to submit to a partial modification of their exclusive system, the Council directed all the energy and influence of which they were possessed to defeat the intentions of the legislature in opening the institution to the various religious denominations in the Province and to place it permanently under an exclusively Episcopal management. The Amended Charter did not in any respect alter the mode in which the Council was to be constituted; but it restricted the number of Professors who were to have a seat at the Board to "the five senior Professors of Arts and Faculties" and extended the number of the whole Council to twelve—the Speakers of the Houses of Parliament, the Attorney and Solicitor General and the Principal of Upper Canada College being members *ex-officio*.

The design of the High Church party to defeat the principle of the Amended Charter was not long suffered to lie dormant. Within a few weeks after the Royal Assent to the modified one of the Charter had been obtained Dr Strachan enunciated to the Council another of his invaluable "schemes" for making the University subservient in some to the interests of the Episcopal Church, and to an enlargement of his personal and pecuniary advantages. The new proposition, which he submitted to the Council on 26th April 1837, affords a curious specimen of the nonsensicals out of which he attempted to ingraft his personal influence on the subordinate departments of the institution, so as to render his authority co-extensive with its most minute details. In other respects it presents a no less happy illustration of the confidence with which that "Universal Doctor" was inspired in his own pre-eminent qualifications as a public teacher. After a passing tribute to the High Church University of King's College, London, he thus proceeded to place his intellectual resources at the disposal of his country:—

"Besides general superintendance it is proposed to make the services of the President available for the Professorship of Moral and Intellectual Philosophy, with Christian Ethics and Political Economy. It will likewise be his duty to instruct such Student as belong to the Establishment in Church History and Theology."

It might be no easy matter to determine the precise amount of loss sustained by the youth of Canada in being deprived of the services of Dr Strachan as an Ecclesiastical Encyclopedia—but we have at least the guarantee of Dr Strachan's

mental assurance that the faculty of discoursing on such abstruse subjects as Moral and Intellectual Philosophy, Political Economy, Christian Ethics and Christian Theology, may be acquired in a less intellectual atmosphere than within the walls of an University. For at what far-famed Academy did that "Universal Doctor,"

> "Qui tria, qui septem, qui omne scibile novit,"

complete the cycle of universal study? Truly we may felicitate ourselves on the wonderful achievements of the Clergy under the lights of an early English Monarch who was wont to complain that not a single priest south of the Thames, and very few on the north, could read either Latin or English. But our admiration of Dr. Strachan's innate excellencies rises into admiration when he informs us that "the labor will not be so great as on a slight view might be anticipated," and that he does not intend to confine his services to the fluent discovery of those illimitable stores of learning which would have delighted and instructed remote posterity, but that he will also generously undertake the task of selecting the Professors for the various departments of Art and Science which excessive diffidence alone prevented him from pre-occupying. In the latter instance of his enterprise it may have been that the bright forms of Crozier and Chaplains flashed before the prophetic vision of the bewildered Doctor—and that he was slightly influenced by the consideration that no other visit to England at the public expense might place within his grasp the objects of his devout solicitude—but apart from such motives of piety it was highly proper that his learned colleagues and fellow labourers in the Council and in the College should be more untrammelled by the heterodoxy in politics and religion which was evidently diffusing itself over the Province of Canada. He, therefore proceeds in the developement of his scheme

> "So soon as matters are in a proper train I submitted that the President be authorized to proceed to England to select the Library Apparatus, &c. *likewise to assist in choosing such efficient professors as are calculated to live in the climate.*"

How interesting is the worthy Doctor's anxiety for the physical qualifications of the professors! Not a word escapes him of their due instruction in the Thirty-nine Articles and the doctrine of passive obedience. Every scholastic consideration is merged in a parental solicitude for long life, and we are naturally led to anticipate proposals for Policies of Assurance, or at least the sanatory recommendation of a frequent and careful perusal of Sir John Sinclair's invaluable Code of Health. It is doubtless a real conscientious exercise of ingenuity to frame under this specious proposition a well planned design for riveting the fetters of an Episcopal ascendancy on the University. For although the modifications effected by the Legislature were intended to deprive the Institution of the Episcopal restrictions imposed on it by the Original Charter, yet it was sufficiently obvious that if Dr. Strachan could succeed in filling the Council Board and the Professors' chairs with individuals hostile to the rights of the other Christian denominations and sufficiently subservient to his own authority the intentions of the Legislature might be clandestinely frustrated and the University would speedily resume its

original character. The very absurdity of its pretensions, however, destined the scheme to defeat. A copy of the detailed proposition found its way into the public prints, and so agitated the country with resentment that Dr. Strachan found it convenient to restrict his pretensions "to the Chair of Theology."

The "scheme" was only abandoned to be re-produced in another shape. Dr. Strachan's ambition was at length gratified with the object of his fervent aspirations. The high dignity to which he had attained, as Episcopal Bishop of Toronto, was incompatible with the humbler duties of a Professor's Chair: but it became necessary, in such circumstances, to maintain, in the University, the unbroken chain of Episcopal succession.

The Original Charter ordained that "the Reverend John Strachan, Doctor in Divinity, Archdeacon of York," should be "the first President of our said College," and that the President should be *ex-officio* a member of the Council. It does not contemplate the exercise of any extraordinary power on the part of the President, beyond that of now-often exercised further than the right of presiding at the meetings of the University, and exercising the usual functions of a Chairman. His other duties necessarily begin and end in the Council and his authority in the University extends simply to matters as to which the Council may give him a special delegation. As a recompense for these common duties was Trustee in the management of the property, he had contrived to appropriate for about twelve years the annual salary of £250 sterling, which was regularly paid until Sir George Arthur put a stop to the disgraceful misappropriation of the funds. In consequence of this untoward circumstance Dr Strachan's zeal for the University appears to have experienced some abatement: but it was scarcely to be expected that he would relinquish the influence which he had so long exercised without making a valiant effort to secure an identity of interest and disposition in his successor.

The political changes to which the Province was soon afterwards subjected, afforded ample opportunity for putting in operation the new series of intrigues which we are now to place before the public. The active interference of the successive Chancellors Sir George Arthur and Lord Sydenham had some effect in placing the financial affairs of the University on an improved basis, but the general system and the character of the Council were not unchanged, and, at length the removal of the Seat of Government from Toronto, by depriving the Council of the only members from whom enlarged views were likely to emanate, left the University entirely in the hands of an Ecclesiastical Compact whose extravagant and unscrupulous conduct has brought it to the verge of ruin.

In anticipation of the University being speedily opened for the purposes of instruction it became an object of paramount importance in the Council to make arrangements for the change in its constitution consequent on the appointment of Professors. The Charter distinctly recognized an order of precedence among the Professors and imposed certain duties upon the Senior Professor" which gave him rank and importance next to the President. In the arrangements for

carrying the University into operation, a Professorship of Theology was determined on, in direct opposition to the Amended Charter; and, following the example of the older Universities, the Chair of Theology received the precedence in a statute approved by the Chancellor, and passed by the Council. So long as Dr Strachan's claim to this Chair was preferred, that arrangement was, of course, satisfactory to the parties by whom it had been planned, but on the absolute ment of that claim, it appeared to the Council to be expedient—while any uncertainty as to the individual who might receive the appointment existed—to defeat the provisions of the Charter by a Council Statute better adapted to their sinister purposes. Accordingly, favouring by the changes in the Head of the Government, the Council framed a new Statute by which they determined the seniority of the Professors on the principle of rotation in the Second Council the individuals who had been most prominent for their bigotry and High Church zeal in the Original Council; and thus ultimately succeeded in placing the University at the most critical period of its existence—the commencement of its public operations—in the hands of parties who had never acknowledged the intention of converting it into an Episcopal College.

The new statute of the Council brought into existence an office unprecedented in any Academic Institution in Europe. By concentrating an unbounded patronage power in one individual known to be favorable to their designs, power was made for carrying out the schemes of the High Church Party, without the solemnity of Statutes, which the Liberal majority might have received opposition either from the Chancellor or the Lower Council. To guard against such a contingency the new office of "Vice President" was created by a Council Statute—framed by a well disposed Committee of which the very individual for whose exclusive benefit it was created was Chairman. The statute received the ready approval of his spiritual colleagues, and unveiled the brilliant series of retrospective preferments, to which Dr McCaul may have subsequently alluded in his brief for a learned Council, by making the University realize an annual burden of £250 sterling—which it has been the means of conferring on Dr McCaul in addition to the ample emoluments he derives as one of the best paid Professors in the University. The intention of the Statute obviously was to supersede the necessity of a discretionary Council and by placing in the hands of Dr McCaul already notorious as the Province as a violent and bigoted High Church partizan the entire direction of the Institution to reduce the Council itself to a nullity or at the best, a mere cushion rest for the gratification of his unbounded passion for power. The office itself was not only repugnant to the spirit as well as the letter of the Charter but the powers and duties conferred under it the individual whom the statute contemplated were directly at variance with the acknowledged principles of law by which the functions of Trustees are regulated.

It will be afterwards a matter of some interest to enquire what were the nature and extent of Dr McCaul's proceedings under this appointment. At present it is merely referred to in reference to its gross illegality. Not only is no such officer contemplated by the Charter, but direct reference is made to the person

who shall rank next to the President of the University, and who shall be entitled, in absence of the President, to perform his duties,—namely, "the senior member of the said Council present," and the precedence of this senior member is again significantly referred to in a subsequent part of the Charter in which the Chancellor is enjoined "to consult with the President of our said College, and the next senior member of the said College Council, respecting all statutes, rules and ordinances to be proposed by him to the said Council for their consideration." And the Charter further declared, that "the seniority of the members of the said Council, other than the Chancellor and President, should be regulated according to the date of their respective appointments." Under these provisions it was competent for the Council to have appointed Dr. McCaul a dean or proctor of the University—although the policy of conferring such office on one of the Professors might have been questionable; but in either of these offices his duties would have been strictly ministerial; he would have been the servant of the Council, and its director; and his powers would have been applied to purposes for which it was evidently intended—the enforcing a discipline which all others were qualified and projected. And it was obviously *ultra vires* of the Council to infringe the rights of "the senior member" by the appointment of an officer who should not only supersede him as one of the advisers of the Chancellor and take precedence of him in the Council when his position was accurately determined by the Charter but who should possess powers co-extensive with those of the Council itself.*

* It is a well recognised principle in Equity that the office of Trustee being one of personal confidence it can in no case be delegated in another. The existence of a discretionary trust is of importance with a delegation of an executive to a stranger who could only be made responsible for ministerial acts. And it makes no difference that the individual to whose instrumentality its execution is entrusted is a co-Trustee. The co-Trustees' Trustees are not only personally answerable for all the mischievous consequences of the delegation, but all the acts of the substitute which are of a discretionary character are *actually void*. It is notorious that under Dr McCaul's assiduous management the University matured habitues in all kinds and of a character far transcending the most profligate periods of the administration of the University affairs. Virtual Lords were recklessly disposed of to meet the pressing exigencies caused by his frivolous and pure in extravagance and misapplication of the trust property and at the moment the University is struggling with pecuniary difficulties which have already considerably impaired its efficiency and actually threaten its solvency unless immediately relieved by the sale of a large portion of the endowment. Any attempt so placed being made to prevent a public exposure by dispos ng of the Reserve by Lands, but as the College Council has not as yet by public sale the Crown to effect any such sales, in themselves a speculation, will scarcely tempt purchasers whose rights will not all probability be defeated in a Court of Equity.

If the Statute itself was illegal *ab initio* the manner in which the powers under it have been exercised has placed it far beyond the pale either of law or of reason. Were the subject not associated with the grave considerations it would move to tears of laughter to describe how

> "Visiting anthems built o'erleaped itself,"

and to witness the misapplication of talents which might have made a perfect gem respectable, but which were unhappily never designed by nature for the higher duties of government in a University. The subject will, however, merit due consideration, when the educational operations of the Institution fall to be detailed.

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It is certain that the appointment was considered to be illegal by the Law Officers of the Crown—and that such is its effect will be sufficiently obvious from a summary of the discretionary powers with which the Statute has invested this anomalous officer. The statute proceeds on the preamble that the residence of the President within the precincts of the University and his personal superintendance of its internal affairs are incompatible with the discharge of his ecclesiastical duties. It therefore declares that there shall, during the Presidency of the Bishop of Toronto, be a Vice-President, who *shall be one of the Professors, and who shall have precedency next immediately next to the President*: that the Vice-President shall reside within the precincts of the University: that he shall preside at all meetings of the Convocation in absence of the Chancellor and President: that it shall be his duty to examine Students previous to matriculation, to maintain *observance of the Statutes by the Professors, Scholars*, and all other members of the University—to enforce such observances and discipline by admonitions and punishments—to be the parent and guardian of the Students, to direct them in their studies—to promote by all means in his power their progress in religion and learning—preside over College exercises—regulate inferior officers and servants—*and inspect all the affairs of the College not appertaining to the Bursar's office.**

The creation of the office of Vice-President irrespective of its own merits, assumes an importance in the History of the University from the circumstances which followed the appointment. It brought the rights of the respective Professors into collision by invoking the order of precedence in doubt, which was only set at rest after considerable delay by the interposition of the authority of the Chancellor, into whose hands the Professors deemed it necessary to surrender their appointments. The authority of the Council was thus, for a time placed in abeyance and during an interregnum of several months the favourable opportunity was seized by the Vice-President of gratifying his unsatiable pass on for frivolous display and extravagance with the zest to his disastrous Administration that it was uncontrolled by any thing like personal responsibility. The absence of responsibility during the abeyance of the Council affords indeed a striking argument for the illegality of the office. It would be monstrous to suppose that the guardians of a public trust could at any time throw off their responsibility to the public by not only delegating the powers vested exclusively in themselves to the instrumentality of an irresponsible officer—but actually by enacting those powers which could only be exercised—if they could be legally assumed, by delegation at all—during the existence of the original Trustees—And yet to whom was the Vice-President responsible? Not, certainly to the old Council whose existence was no longer recognized by the Charter; and assuredly not to the new Council for he could possess no authority from them till his appointment had been confirmed. And yet during the interregnum this officer usurped powers of administration as ample as the first Council ever affected to possess, and equalised the period of

* By another Statute of the Council the important concerns of the Bursar's office were confided to the parental care of the Bishop of Toronto.

has usurpation by a daring violation of the provisions of the Legislative enactment under which the University went into operation by gross misappropriation of the funds of the Institution and by the introduction of a discipline utterly repugnant to the feelings of the entire laity and disastrous to the interests of the University

CHAPTER VI.

THE OPENING OF THE UNIVERSITY.

In June 1843 under the Administration of the "Vice-President" the University was opened for the purposes of Education. It is important to observe that that step was taken while the authority of the College Council was in abeyance, and before a single statute had been passed for regulating and enforcing the government and discipline of the Institution All the preparatory arrangements seem to have been made under the discretionary authority of Dr McCaul as Vice-President and as the same unlimited power extended over the whole of the first term has a name may very justly be associated with the singular details which have given to the University its present tone and character

The Council now felt themselves in a position to effect open violation to the principles of the Amended Charter Every effort was studiously made to impress the public mind at the outset with the determination to defeat the intentions of the Legislature by imposing an Episcopal character upon the Institution Under the authority from the Charter but in flagrant violation of its spirit, a Theological Chair had been established from which the doctrines of the Church of England were to be taught by a Professor selected from the University of Oxford—the fountain of orthodox illiberality and prejudice With one exception the Professors had been all taken from the bosom of the Episcopal Church—a circumstance in one respect detracting from the equal Seations but the result of something more than accident and certainly calculated to have a material influence on an institution which in other respects, has been so carefully modified to Episcopal prejudices. A chapel had been fitted up at great expense for the exclusive accommodation of the Episcopal members, in which every student was compelled, unless favoured by the dispensation of the Vice-President to worship daily according to the ritual of the Church of England In the most minute details of dress and discipline the Universities of Oxford and Cambridge which have been so long duly regarded for violent hostility to the Dissenters, were imitated with a precision abundantly significant of the spirit in which the University of King's College was to be governed. The frivolous taste of the Vice-President was amply gratified with the melo-dramatic effect of cap-&-gowns hoods, surplices, gilded maces and beadles Utterly destitute of that comprehensive grasp of intellect which would have seized upon and incorporated those higher and nobler features

which have rendered the ancient Universities of England venerable in spite of their corruptions, his genius seemed to soar no higher than the mere *tailoring* department, in all the frivolities of which it revelled as if under the influence of a inseparable monomania, and of a silly anticipation that those venerable absurdities which had grown up on the backs of Inns and Cuts, would impose upon the people of Canada, and would compensate for the absence of all that was solid and useful, and adapted to the position of the country, and to the genius and wants of the people.* Undismayed by an Exchequer impoverished by its own

* We acknowledge a high respect for the Academic Institutions of England, but not for the corruptions under which they labour. Nor has all the feebly declamation of the Vice-Principal convinced us that England owes much of her renown to the system upon which these exclusive Establishments are conducted. It would be an absurd to attribute the greatness of English literature to the course of Academic instructions at the Universities, as it would be to ascribe to the greatness of England's commercial prosperity to the restrictions upon her trade. It is not, however, against the Institutions themselves that we are inclined to inveigh, but against the abuses which are there permitted to flagrish in exuberant rankness. If we have formed an unjust estimate of that system, we have at least the satisfaction of crying in company with the greatest names of which England in her turn has to boast. Bacon spoke of their constitution with reprobation. Milton even blamed their supercilious influence in retarding the expansion of the mind. Dryden inveighed the same with the way had caused them to suspend. Clarendon, Addison and Gibbon all launched against them their sarcasm. Swift, Gray and Gibbon named of them with the keenest shafts of their raillery—and Jeremy Bentham has drawn up a peaceful scheme of chemistry and though less mesh stern [illegible] would be amply indeed to establish by the testimony of a succession of the most gifted minds which England ever produced that as a period of their history when the most ancient Universities been free from gross corruption and defects, and was taken advantage of to carry on a system of the authority immediately in hand and from which a more favourable representation might have been expected, if truth would have been sacrificed, for the sake of more ease and restraint on

"In the Universities they learn nothing but to believe first to believe that others know that which they know not, and which themselves know that which they know not They are like a becalmed ship, they never more but by the wind of other men's breath and have no care of their own to steer with.—*Bacon's Tract on Pursuit of Knowledge.*

"In the Universities, all things are found opposite to the advancement of the sciences; for the readings and exercises are be so managed that it cannot easily come into any one's mind to think of things out of the common road, or if, here and there one should run into it, he is like to get no credit for his pains; the task upon himself is thus of gaining assistance to his fellows and if he could dispose of it, he would find his industry and trouble no great advance to his fortune. For the studies of men in such places are confined and pinned down to the writings of certain authors; from which if any man happen to differ he is presently foreclouded as a disturber and innovator.—*Novum Organum Ax.* 98 &b. I.

"Such are the arts, such the fruits of training our prime youth at the Universities, as we do not but learn no more words, or such things chiefly as were better unlearned.—*Milton's Tract on Education.*

"The two walls of corn are, Oxford and Cambridge, are dried up, students decayed, of whole science as I understand are left of a hundred and of in seven years more they should decay so as there would be almost none at all: so that he durst would make a question at all if there were none learned in whom to nominate the flesh.—*Dr Bernard Gilpin's Sermon preached at Court.*

"The Universities, Oxford espec ally have been unhappily successful in corrupting the principles of those who were sent in the bred at them so that few of them escaped the taint of it; and the generality of the Clergy were not only ill-principled, but ill

reckless extravagance, a crowd of lazyeyed officials was employed to swell his personal pomp,—as if to prove that an endowment for the public benefit was to be administered as if nothing more was to be considered than the private gratification of its Trustees."

temperer; they exclaimed against all moderation as endangering the Church; though it is visible, that the Church in no sort of danger from either the members or the interest that the dissenters have among us, which, by reason of the toleration is now so quieted that nothing can keep up any heat in those matters, but the folly and bad humour that the Clergy are possessed with, and which they infuse into all those with whom they have credit." "In those seats of learning, instead of being formed to love their country and constitution, the laws and liberties of it, they are rather disposed to love arbitrary government, and to become slaves to absolute monarchy: a change of interest, prejudice, and manner other considered, may see them rapid agents up to the public; at their have no it want principle of love to their country and of public liberty; so that they are easily brought to like slavery, if they may be the tools for managing it."—*Bishop Burnet's Hist.*

"Let him who so finds it satisfactory in a down-like existence go to Oxford, and stay there: let him study this magnificent spectacle of the same under all aspects, with its mental twilight to temper the glare of noon tide or heightening the shadowy moonlight, let him wonder if her sylvan solitudes, a finger in her shuttered walls: but let him not snatch the din of scholars or teachers, or dim or cop with them: no speak a word to any of the privileged inhabitants for if he does, the spell will be broken the poetry and the religion gone, and the place of fine enchantment will melt from his embraces into thin air." "What has been the result of the system of education pursued at the Universities? During the last two centuries our class of statesmen has remained all impracticable, and their opponents have been hunted into attempting alterations which ph tosophy lamenting there contentions, has instead of advancing the science of government been occupied in counteracting laws founded upon erroneous principles; erroneous fundamental laws attempting have been and have reign ion liberty and extravagance in penal laws."—*Montague's Life of Bacon*

Founded by priestcraft, slowly linked with the professors in the end of times, and always in the hands of the ruling powers of the Church, the Universities have in every age been most exclusively opprobrious to the errors on and usages of he Established sect and its members. The most rigorous exempl nace with the doctrines has always been exacted: the slightest exc usion of all Dissenters from a ll honours is openly practised. An long an Popery was the rel gion of the State the Un versi ties were rigidly Catholic, and indeed their endowments to be for his greater part, proceeded from the bounty and piety of Romanists and were given for the propagation of the Romish faith and the maintenance of the R omish discipline. When he State threw off i s allegiance to the Pope, and became Protestant, the Universities followed and promptly directed all the donations and bequests of their Catholic founders to the destruction of the Catholic religion and to the reformed faith, with the maintenance of their old profession, and transferring its Dissenters the hatred which they had formerly borne to the docts ine and discipline of Protestants. He has hatred was very cordial, if not very nons sterd: and no pa tronpa n ur hen endowments could ever be hoped for by any one who was not prepared to swear an implicit belief in the dogmas of the Church and testify it by an ex ward observance of her ritual every day as well as by occasional declarations and signatures of a more solemn kind.—*Edin Rev* Aug. 1835.

"One first light," observes Dr Pusey, "comprises the beginning and end of all the public manrue tos wh ch may candidate for Holy Orders is required to attend previously to entering upon his profession."

"The University of Oxford," "Professor Sewell confesses," "is not an enlightened body—we (its members) have little liberal spir nt religion and we study how in a very humble way"

"It is a deplorable fact that the number of matured Officers a King's College nearly equals that of the Students who have matriculated during the three first terms.

The gross and futile attempt to establish the Collegial residence and discipline in all those unimagined defi ciencies which have caused the emigrance of Cambridge to alternate in fearful oscillation between a School of Learning and of Licentiousness, showed how little this Vice-President knew … understood the history and character of those Institutions upon whose mechanism he seems to have gazed with a sort of savage bewilderment, without being able to comprehend any one of the principles upon which it had been set in motion or kept in operation. Under his administration, the first of a series of Monastic Establishments has been completed at a ruinous sacrifice of the endowment, with no other apparent object than that of giving the University the paltry necessity of the board and lodging of a handful of Students.

It is, indeed, an undeniable fact, that such establishments, formed on the Monkish model, are to be found at Oxford and Cambridge, but it is no less true that they have been the principal sources of the immorality which prevails to an alarming extent at these famous Schools, and they are now only tolerated as part of an ancient system,—the necessities under which they were instituted having long ceased to exist. In early times, the English Universities were not merely national but were in every sense cosmopolite Institutions.* During the middle ages Students flocked to them as the Schools of eminent teachers, from every country in Europe. The vast concourse of Students occasioned a scarcity of lodgings and exorbitant demands for rent in the towns where they were established and a certain difficulty was thus created to the poorer classes of Students whose means were unable to meet the demands which the increasing celebrity of the Schools occasioned. This benevolence of individuals was stimulated to relieve the Students of a burden, which many of them could ill afford to bear by providing them with free lodging during the progress of their studies, and the domestication of the Students consequently became a prominent part of the system. Some of the Colleges had, indeed, been founded solely for the support of indigent Scholars—but the practice of domestication has been in a great measure perpetuated at Oxford and Cambridge by the illegal monopoly which the private Colleges have usurped over the national Universities. In every other country in Europe the system of domestication has been gradually but certainly relinquished as altogether unsuitable in the character and not required by the necessities of the times. The University buildings present nothing more than an aggregation of class-rooms, in which the proper business of the University is conducted with reference to the public benefit and not as Normal Schools for the training of Vice Presidents, at the public expense. It was reserved however for Canada to lead the way in a revival of those Monkish features of the ancient Universities as if the more unseemly to ev nce the Puseyite tendencies of her population by the adoption of a system to which she was careless and neither by her necessities nor her interests.

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* The origin of the Collegial system was almost contemporaneous with the establishment of the ancient Universities, and was adopted from the University of Paris, which was the model upon which the English and most of the Continental Universities

It is upon the *morals* of the system upon which the College Council are proceeding that we have at present to do. Their eccentric taste for architectural embellishments and economical arrangements, and the adaptation of their means to the end proposed, will be more appropriately discussed in the subsequent Chapter. But surely the people of Canada do not require to be warned against the fearful dens ruination and licentiousness, which the system of domestication will inevitably introduce. We dare not stain our pages by more than a bare reference to those immoral practices, which, notwithstanding the vigilance of an extensive police, prevail to an alarming extent at Oxford and Cambridge. The truth of the charges which have been frequently made against these Institutions has been lately established in the British Parliament by revelations from the personal experience of some of its most distinguished members. The hopeless manufacturers that has hitherto attended Dr. McCaul's administration will scarcely afford a guarantee for purity of morals at King's College under the monastic system, and under an enlarged system of action. Nor can any plea of necessity be advanced for so hazardous an experiment in a city where there exists sufficient competition among *boarding Schools* almost and ample accommodation for the largest influx of Students that could be anticipated, even were the University to accomplish the purposes for which it has been established by law.

The only argument to which any weight can be attached for retaining the system of domestication in the English Universities is, singularly enough the only one which the Trustees of King's College seem to have despised—namely, the opportunities which it has afforded to indolent scholars of a complete course of academic instruction. To the honour of England it should be acknowledged that she has offered facilities to persons from the very humblest walks in life for rendering themselves masters of all the knowledge that it was in the power of the most learned Professors to bestow; and it is a pleasing reflection that some of the greatest names which have adorned her Universities have owe their greatness to her bounty. But to the ineffable disgrace of Canada, a noble endowment, which was calculated to afford to its youth a liberal education adapted to the necessities of a young country, has been so fr itered down and wasted by willful extravagance, misapplication and a base thirst for personal aggrandizement, that at the present moment she has not wherewithal to educate a free scholar at her University.

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were formed. In Germany, the Collegial Establishments never obtained a decided predominance over the functions of the Universities. In the oldest Universities of the Empire the system of Conventual Establishments only extended to the habitation, almost and superintendence of the youth; and such institutions were no where called into existence since the commencement of the sixteenth century. Prague Vienna, Heidelberg, Cologne Leipsic and a few others, all possessed in early times such establishments; but since the revival of Letters they have been unable to maintain any importance. In England, where they have long usurped the functions of the Universities, the Colleges have saved their stability in their immense wealth. The narrow system of tutorial instruction has adversely predominated and has tended, in a remarkable degree to impair the efficiency of the Universities. This is no vague charge against these Institutions, but has been long a matter of complaint by their warmest admirers.

It would be unnecessary to waste argument on the system of general lucubration, when the designs of its projectors are conscious to a more aggravated charge than that of imbecility. The attempt to subvert not to the great scheme which the Council have cherished with unvying affection,—to convert the University, by the instrumentality of domestic superintendance, into a nursery of High Church prejudice and intolerance. And in pursuance of this design, another purpose favourable to the same object will be effected. The buildings necessary for the proposed domestic accommodation, and which can never be adapted to any other purposes, will make such an inroad on the endowment as will effectually silence all demands for a participation in its benefits by the other Christian sects. The modification of the system which has been introduced until the economic arrangements have been completed, has proved its perfect adaptation to the purposes intended. The aggregate fees of the Students during the first and second terms have been found just sufficient to cover the expense of their dinners: but the practice has offered an admirable opportunity for introducing those venerable High Church toasts which lend their potent qualities to the small beer with which the Students are regaled on these festive occasions. The Vice-Provost was willing to put a stop to such ruinous abolitions of youthful orthodoxy, but with much liberality granted dispensations in such of the Students as have interposed their prejudices to the general current of orthodox sentiment.

It was an ominous circumstance that the first step which was publicly taken on opening the University should have been chargeable with gross and reprehensible deception. The Students were called upon to subscribe to a declaration of obedience to the Statutes Rules and Ordinances, framed under the provisions of the charter; and the Vice-President gave the sanction of his authority to this solemn mockery, under the full conviction that not a single Statute had been passed by the Council which could in any respect effect the discipline of the institution. The Charter had indeed ordained that the discipline and government of the University should be enforced through the operation of Statutes; but as the Council had determined that the Charter should only take effect in so far as it favoured their sinister designs, they foresaw that they could outrage the law with more perfect impunity by transferring the government to an irresponsible officer than by placing that officer under the operation of illegal statutes or the evidence of which they might have been brought to punishment for a betrayal of their trust.

The design of subverting the law by a secret evasion of the provisions of the charter was unanimously but strikingly evinced in the Inaugural Address of the President, whose literary predelections have so frequently proved disastrous to the schemes of his party. He alluded to the principles of the original charter as terms expressive of the value he attached to his own exertions in behalf of the Episcopal Church. He characterised it as "the most liberal that could be framed on sound tutorial principles"—and denounced those who had struggled for equality of rights, and whose claims had received the sanction of a parliamentary modification of its exclusive provisions as "turbulent spirits," who "had taken much pains by calumnies and misrepresentations to poison the minds of the people

against the charter." He referred in terms of warm admiration to the resistance which the College Council had uniformly made to "the unchristian intrigues and clamourings" by which their designs had at length been frustrated. The London University, to which in some respects the Amended Charter had assimilated the University of King's College, he described as "an infidel attempt which had signally failed, as all such godless institutions of Babel ever must." "These were considerations," he observed, "also convince me that had the University been permitted to proceed under the Royal Charter without alteration, it would have been far more efficient for all the purposes intended, than in its present form." And he defended a recurrence to the original system on the ground that the Episcopalians were now entitled to an exclusive University, inasmuch as the other sects had recently surrendered their exclusive prelelections by the establishment of Colleges adopted to the principles which they severally professed.

In such language did the highest Episcopal Dignitary in the Province and the Chief Executive Officer of the University, denounce the law under which the Institution had gone into operation, and formally advocate its violation before the youth who had assembled under the anticipation of receiving that "complete and generous education which fits a man to perform justly all fitully and magnanimously all the offices both public and private of peace and war." Was it to be expected that the law would be honestly acted on when its executor was left in the hands of men who had thus openly avowed himself an enemy to its spirit and principles—and who had resolved within the limited sphere to which he had at last been driven to re-enact the deeds which had for so many years impeded the progress of the country and the moral and social advancement of its population? Was it to be tolerated that the same individual who had raised himself to the dignity which he then enjoyed by a long course of indirect persecution, and by trampling and trampling on the civil and religious rights of his fellow subjects; who had, by the "supreme dutifulness" of calumny and misrepresentation poisoned the ear of his Sovereign in regard to the loyalty of his countrymen, who had lived and battened on secret institutions and charges of disaffection, should commence the public discharge of his duties in a national University by inculcating on the assembled youth disrespect and hatred of the law and by avowing his determination to subvert its authority. If privileged insolence may thus claim protection in the possession of irresponsible power y alied by the slav sh subserviency of his satellites, the law has been robbed of that majesty which gives it its highest claim to veneration.

The spirit in which the University was opened has already exhibited the fruits which it was so well calculated to produce. The absence of Statutes for regulating and enforcing a proper discipl ne has given an immunity to mal-conduct which has been quickly appreciated by the students and heard laughs made the most odious an object of unqualified scorn and derision. There is not a student within the walls who is not well aware that no Statute exists under which he can be legally

* Milton.

punished for breach of discipline. It may flatter the vanity of the Vice-President to assume the affected power of issuing "dispensations," "substitutions," and "restitutions," but every youth is aware that neither legal indulgence nor legal punishment is conveyed by these empty words—and that until Statutes have been passed for regulating the studies preparatory for degrees the arbitrary functions of the Vice-President cannot affect his claims to University honors. The absolute failure of the series of miserable expedients by which the Vice-President has attempted to establish an exclusive personal authority ought to have convinced him, if his previous experience was insufficient, that an University must be governed on some settled principle, and not by the whims of a capricious temper. The impotent attempt to sacrifice the legal authority of the College Council to an ambitious passion for personal power has met with the fate which it merited, and would be a source of gratification, if its disastrous influence on the character of the University did not excite the most anxious apprehensions.

The Medical School,—in many respects the most important department of the University in the present position of the country,—has experienced to an alarming extent the effects of this mismanagement. Its security within the opportunities of acquiring Medical skill are diminished. It might have been expected that every means should have been adopted to render the education of practitioners easily accessible, and that in this department at least public necessity would have prevailed over sectarian bigotry. But here also has the fatal influence of the Vice-President extended to blight the prospects of the country by an ignorant interference with the duties of the Medical Professors; and by the application of his exclusive principles to a depart ment whose free operation would have conferred immediate and lasting benefit on the country.

Under the present arrangements the only real benefit which the public can derive from the establishment of the Medical School as the admission of "Occasional Students"—who may attend the lectures of he var ous professors, but will not be entitled to any of the honours. To entitle the Student to Medical honours he must, previous to his professional course, have taken a degree in the Faculty of Arts. The Medical Student may thus study at King's College—he may reach the exact point of receiving Medical honours with advantage to himself and to the community and with credit to the University—but the stamp of ability and knowledge to which by his attainments he may be justly entitled, will be withheld—he must practice in a low and sub-ordinate position, or he must expatriate himself for a time—he must go to a foreign land and ask from a foreign University that degree for which his literary and medical education may have eminently qualified him—that he may be on a level with his fellow students who have gone through the same professional course, but whose religious principles or it may be their scruples, have not prevented from taking a degree at an Episcopal University.*

* No part of the conduct of the Vice-President has proved his incapacity for the position which he has assumed, so much as his ignorant and impudent interference with the management of the Medical School; and as a necessary consequence no department of the University has suffered so materially as its clinicals. We shall have

The mismanagement of King's College affords a melancholy illustration of the disastrous policy of placing the administration of a law in the hands of parties who have an imaginary interest in subverting it. Had the spirit and intentions of the Amended Charter been fairly acted on—and has private interest not usurped the place of public duty, notwithstanding its very obvious defects—the Charter was sufficiently wide in principle to comprehend the advantages of a liberal education; but by its gross and fatal perversion a system has been introduced neither in harmony with the free principles which prevail in the country, nor consistent with the advantages of sound academic instruction. That dispensations from the rights and ceremonies of the Episcopal Church have been granted, is no answer to the charge of a recurrence to the original system—and of a betrayal of trust in imposing on the University an essentially Episcopal character. The very existence of dispensations in itself at once an admission of this fact, and an assertion of superiority claimed in the University on behalf of the Church by which they are granted. In not the granting of dispensations as a matter of favour an assertion that those who refuse them are only entitled to the full privileges of the University by sufferance—and does not sufferance imply something of degradation?

But under what interpretation of the Amended Charter can any one Church claim an ascendancy in the University? If the Episcopal Church has a supreme right upon what possible grounds were the amendments made? The privileges of that church were already recognised by the original Charter—was the amended law which was so strenuously resisted by the Council necessary for their further security?

It has become sufficiently obvious, that before the University can fulfil the purposes for which it was intended the parties who have grossly perverted the law and frustrated its intentions must be removed. The necessities of the country the peace and prosperity of its inhabitants require that the majority of the law

necessary in another place. In advert to his repeated attempts to degrade the position
of the medical professors—and to the gross breach of faith to which he was a party in the reduction of fees enforce below the sums promised by a former Chancellor. But we shall confine ourselves particularly at present to the systematic opposition which he has given to the arrangements proposed by Dr. Webster and others whom the country would have gladly reposed its confidence. It was under a sense of his Vice-President that in opening the Medical School he should have taken some open effort to become to Dr. Webster and the medical professors at a time when all parties were disposed by liberal influences to the most generous regarding which he was profoundly ignorant. The failure of the Medical School has been the result.

It is thought that we have prematurely attacked the system of exclusion before the Statutes have been passed, we have only to say that we have proceeded on the universal understanding in the University in regard to the admission of medical students. An application to the Bursar was made, at the commencement of the last term on behalf of the Presbyterian body to ascertain the conditions on which Presbyterian Students could be admitted to the privileges of the Medical School.—To this application an equivocal answer was returned, after consultation with the Vice-President to the effect that the Statutes would be published. The fact that these Statutes were not in existence was attempted to be concealed but the fact thatthey have not yet been passed proves the deplorable mismanagement under which the institution is labouring and by which its efficiency is impaired

shall be vindicated by the signal punishment of the parties by whom it has been outraged. If conformity to the Episcopal Church were required by the law, there might be some reason in giving it an ascendancy in the University, as a national seminary of education. But when, on the contrary, the great majority of the inhabitants of this Province differ from that Church in doctrine, discipline and worship—when the other denominations are powerful as a whole, in influence, and in activity—embracing as they do nine-tenths of the enlightenment, the wealth and the stamina of the population—when there exists no difference in the civil rights, privileges and powers of the people on account of the religious opinions which they entertain,—why should the same equality not exist in this seat of learning, by admitting all classes and denominations on the same principle of equality to a free enjoyment of its benefits as their studies, and afterwards to the reward and record of their merits in the attainment of its offices and honours. There is no monopoly of morals—good citizenship by any particular sect—why should civil privileges be confined to one denomination which only enjoys a share of the virtues that are equally diffused over all?

It is a bitter mockery to say that the various denominations of Christians are entitled "by sufferance" to enjoy the advantages of attending the lectures of learned Professors, in the prosecution of their professional education,—that *by sufferance* they may devote themselves to the acquisition of professional learning—that they may toil and labour in the prosecution of those studies which will fit them for attaining the honours that the University can bestow,—but, inasmuch as they will not submit to Episcopal discipline, they must look to the other Universities of America for conferring those titular distinctions which our own University withholds from native intelligence and learning on account of conscientious convictions. Are the civil rights of the Canadian people thus to be gauged by the measure of their theological opinions? Are the creeds of our fellow-subjects again to receive a system of negative persecution and to be made a matter of punishment or reward? Is the great majority of the population to be placed under a sense of personal injury and to suffer a positive evil by which they are to be retarded in the paths of professional life? Are honours freely won to be refused on the ground of caste? Are the people to be exposed to the feeling that they are ill treated by the laws of their country and that they are precluded from the enjoyment of benefits which are open to others by the illegal regulations of an exclusive establishment? And are all these practical injuries to be inflicted, not only without the sanction of positive law, but in flagrant and open violation of an express legislative enactment—by parties who having equally failed in establishing a legal orthodoxy seek to allure neophytes to Episcopacy by hiding the non-existence of intolerance under the mask of dispensations and favours, which they will refuse to confer the instant they can discover that there is stability to demand? If the great purposes for which the University was established have been thus grossly and unjustifiably perverted—if the law under which its Trustees were bound to act has been thus scandalously violated—will it be said that there exists no power in the Constitution to bring the guilty parties to punishment, and to reclaim the Establishment from the errors of its "graceful prostitution"

CHAPTER VII

ADMINISTRATION OF THE ESTATE

The Chancellor having returned their appointments to the Professors under each dates as fixed the order of precedence the authority of the new Council was called into existence in October, 1843 Before adverting to the proceedings which have since taken place it will be proper to give such a view of the admin stration of the Estate as can be obtained from the materials to which we have had access The irregularities of the Bursar's office are not the only obstacles which exist to prevent a thorough understanding of the University affairs. A long course of maladministration has made the Council wary o him shing details and accordingly the Returns which have been made to Parliament are studiously mystified and defective Sufficient materials may however be obta ned to establish the character of King's College as the very Paradise of Jobs even n o county where unscrupulous waste and misapplication of the public treasure have imposed scarcely any limits to cupidity and corruption

The first general investigation which appears to have been made into the state of the University affairs, was instituted by S r George Arthur as Chancellor in 1839 In the course of that year an accountant was appointed to examine the Bursar's books and to report on certain alleged irregularities to which the Chancellor's attention had been directed.

It appeared that the Bursar's accounts of rece pts and expenditure had been made up from loose memoranda at first monthly and afterwards quarterly—that the accounts themselves consisted merely of abstracts and that the abstracts constituted the only record of the management of the Estate No rare had been taken to test the accuracy of details by means of a balance sheet and, in fact no attempt had been made either to present the accounts in a detailed form or to show the connection of income with expenditure The books themselves had been kept on no sort of system and no connection existed between one book and another No rental had been kept, and no registry of the tenants' leasehold lands existed. Where complaints had been made by pa ties who had not run ved credit for payments, arrangements unfavourable to the Estate had been frequently made in order to conceal the absence of system In fact every th ng appeared to be in the most hopeless confusion and evinced a degree of culpable negligence which, but for the active interference of the Chancellor would have speedily brought the Estate to ruin

It further appeared that large sums had been withdrawn from the funds of the Institution for the private accommodation of the President at first without any authority from the Council and without any security having been given at the time that, afterwards, notes of hand by parties in no way connected w th the University, and which had been g ven to the President in the course of a private transaction were deposited by him with the Council to security of the loan In connection

with this transaction, and so throwing light upon the system of management which existed previous to the year 1840 a despatch from the Right Hon. G. Poulett Thomson to Lord John Russell is subjoined —

"GOVERNMENT HOUSE, MONTREAL,
"*June 8th*, 1840

"My Lord,—I observe by the papers that, on the 26th March last, Mr. Pakington took occasion in the House of Commons, to ask your Lordship certain questions in regard to the Bishops of Montreal and Toronto. With respect to the latter, he is reported to have said, that Dr. Strachan had been deprived of his salary as President of King's College in consequence of his appointment as Bishop, contrary to the agreement made with him when he accepted the Episcopal office, a proceeding which he described as cruel and unjust.

"It is evident, that if these expressions were used by Mr. Pakington, that they have proceeded from his ignorance of the circumstances under which the salary of the President of King's College was discontinued. I feel it therefore, my duty to state those circumstances to your Lordship, as I believe them to be, in this Province, as well as in England generally, somewhat shocking to the common sense of Bishops of Toronto with that establishment, which I had hitherto delayed doing, from a disinclination to enter upon transactions which I cannot consider creditable to that person concerned.

"Your Lordship is aware that many years ago a Royal Charter was passed for the establishment of a University in Upper Canada, but that by that instrument the Archdeacon of York was appointed *ex officio* President.

"From various causes which have at different times been fully reported to your Lordship's predecessors, the institution notwithstanding, that it enjoyed a considerable endowment, was not then (nor has it been since) brought into operation. Nevertheless officers were appointed principally for the management of the Estate and no sooner were assigned to the Incumbent of York a salary of £500 sterling was also attached to the Presidency. At what period Dr. Strachan first received this salary I am unable to shew reference to Upper Canada, to state but the records of the Colonial office will supply the deficiency. From the enclosures, however to Sir George Arthur's despatch to your Lordship, of the 8th June 1839 you will perceive that, in that date the Bishop had declared to draw it.

"But in the course of last year, as a resignation having been tendered by Sir George As his office of management of King's College the fact that the President was annually drawing from its funds an income of £500 sterling was brought to his notice. Considering that no duties of any kind beyond those of office usually attached members of the Council were attached to the office—that there was no immediate prospect that the Institution would be put into operation—and that every shilling taken from its resources was so much deducted from the means of education in Upper Canada, already most deficient, it appeared to him impossible any longer to permit such an appropriation of its funds. In this opinion I entirely concur, and I am confident that your Lordship will approve the course which Sir George Arthur adopted. It is indeed, difficult to understand how the considerations by which he was actuated, should so long have escaped the notice of the Bishop himself.

"But the enquiry into the state of King's College, and the production of annual returns called for by the Assembly brought out other irregularities in the management of the Institution. Thus it appeared that the accounts of the Bursar were very much in arrear, and I became necessary therefore to remove him and to appoint in his office in his place, and it was also shewn that a very considerable

term had been borrowed from the funds of the University by the President, or his private purposes on the security of various notes of hand and that several of those notes had not been paid when due

"Upon my entering on the duties of Chancellor of the University the Senate of that body naturally demanded my attention and I was compelled to institute some enquiries respecting the accounts to which were rendered to me

"This correspondence I now enclose and I have only to say that I was not without considerable hesitation that I could satisfy myself with only recording my opinion in the Minute in the Council which closed it, instead of proceeding to further measures.

I have &c
—C POULETT THOMSON

The Right Honourable
"LORD JOHN RUSSELL, &c. &c."

The enclosure referred to in the despatch was a letter to the Bursar in the following terms —

"TORONTO *February* 15 1840.

SIR —Your letters of the 11th 12th and 14th instant, have been laid before the Governor General together with the enclosure With reference to the solicitation in the accounts of the Treasurer, and the circumstances which recently have that officer's Excellency is sorry to find that no remedy now seems possible and it is only to be hoped that the property of the late Treasurer may be found sufficient to prevent ultimate loss to the University

With respect to the loan of money stated to have been made to the Bishop of Toronto upon the security of certain notes of hand and upon the subject of which, in addition to your remarks a letter has been transmitted addressed to yourself by the Right Rev Prelate, I am commanded to inform you that his Excellency the Governor General feels himself compelled to record his opinion for the information of the Council.

His Excellency wishes to abstain altogether from the consideration of the circumstances under which the loan was sought, alluded to in the letter of the Right Rev Prelate and upon which he had neither the desire nor the right to require any explanation The point upon which he is called upon to express an opinion is, as Chancellor of the University not the circumstances under which the loan was made by the Council and the action that has been taken upon the case then given

"It appears that a loan of a considerable sum was made by the Council to one of the members of the Board, such a proceed ng his Excellency cannot by any means view in the light of an ordinary money transaction The employment of the funds of a public trust by one of the trustees for his own advantage is a proceeding which in his opinion is highly objectionable and calculated to destroy the confidence of the public in the management of the University" With regard to the second point, his Excellency regrets to be obliged to remark that a proper course has not in his opinion been pursued It appears from the statement that no less than eleven notes of hand are now due of which three have been for more than five years since 1837 three since 1838 and the remainder since the 24th December 1839 In business of this kind punctuality should of course be observed but in the affairs of a public trust a scrupulous regard to it appears above all things

* In England such a transaction would be treated with severity in a Court of Equity (Vide the writ and minute.)

desirable. If a note of hand be not discharged at maturity by the party first liable, the simple and ordinary course is to call upon the endorser (if any) to do so. But such steps seem to have been taken and the signatures of those bills have been yet suffered to remain dishonoured—some of them for a very considerable time.

I have &c.

"T W C MURDOCH
"*Chief Secretary.*

"Dr Rose *Enrer*."

The last returns to Parliament of the University affairs, were prepared in May 1843 and laid before the Legislative Assembly in October of the same year. They professed to give a statement of the affairs of the University of King's College and also of Upper Canada College for the years 1839, 1840, 1841 and 1842 "—but the manner in which they were prepared so successfully defeated the objects of the Legislature in calling for them—that both Houses found it necessary to appoint Committees for the purpose of making further investigations by the examination of books, papers and persons. This examination was in progress, and evidence of an extraordinary character had been elicited when the investigation was unfortunately arrested by the proceedings which terminated the last Session. In these circumstances our Financial statement must necessarily be very imperfect; but we are fortunately enabled to throw such light upon some parts of the statement of the College Council as may enable the public to form a fair judgment on the matters of their administration.

	Acres.
The original endowment of King's College amounted to	295,844
Of which there have been sold up to 31st December 1842	110,410
Leaving on hand	185,434
Of which there were on lease	95 334
And unoccupied	20,005

The sales were commenced in the year 1828 and their number has amounted to 896 in fifteen years. The number of acres sold has varied in different years according to the exigencies of the trust. In some years the number of acres sold did not exceed 350 while in another and not an early period of the trust as the year 1835 no less than 18 088 acres were disposed of. In 1829, there were 11 963, and in 1833 there were 13,566 acres sold. The average price received between the years 1828 and 1842 was 22s. 9d per acre

It thus appears that before the University had gone into operation considerably more than one half of the original endowment had been disposed of. A last no startling will naturally lead to the inquiry, under what authority did the College Council proceed in the absolute disposition of lands which had been appropriated for the purposes of education, and what extraordinary circumstances could warrant a proceeding so repugnant to the well known principles of law and so inconsistent with the purposes for which the endowment was made?

In a legal point of view, there cannot be a doubt that every sale which has

been made in vain. The Grant gives the Council no authority to sell, and the Charter is equally silent.

The administration of the endowment must, therefore, be subject to the common principles of law which govern similar foundations. Although the University of King's College may, in some respects, partake of the nature of a civil corporation—as, for instance, in respect of its Professors who have stipends annexed to their chairs *pro operæ et labore*—yet the purposes for which it was established give it in some respects all the character of an eleemosynary foundation. It was instituted for the purpose of imparting assistance, to its members in the prosecution of literary ideas; and, in the administration of its estate it is, therefore, subject to the principles of law which regulate corporations for charitable purposes.

Now, the Trustees of an eleemosynary foundation are not authorised by law to make an absolute disposition of any part of the estate. The Court cannot authorise such a disposition, and Parliament itself will not go so far. Acts of Parliament have been sometimes obtained to authorise the exchange of an estate belonging [illegible] for another; but in no instance so far as I am aware has an act been passed for converting such estate into money.

The Court of Chancery has invariably declined to sanction a sale where the authority to sell is not given by the instrument under which the Trust is constituted. And even when an equal power may exist the Court will not interpose its sanction without sufficient proof as well that the sale is necessary as that the provident Administration of the Estate is at an end. The necessity in the situation and circumstances of the Trust.

But what possible circumstances could arise considered with a view to such an Administration of the Estate under which the College Council was authorised to dispose of a single acre of the Endowment? The University did not go into operation for fourteen years after the grant had been made, a separate provision had been given for the erection of the necessary buildings. Lands immediately available and already under lease had been exchanged for the original Endowment, an income of more than £1,000 per annum, was obtained from rents during the first year of the Trust. The annual income now arising from the dilapidation of the Estate, had gradually increased to about £1,000—far exceeding the necessities of the Institution—and yet, in spite of these advantages, the College Council have found it necessary to make a ruinous sacrifice by disposing of by far the most valuable portion of their Endowment, namely the lands under Crown leases with all the valuable improvements, before a single lecture was delivered in the University.

The necessities under which the Council have suffered have not merely been of their own creation, but have been caused by a violation of trust of the most flagrant and nefarious character. A sum of £250 per annum was given for upwards of 13 years to one of their colleagues, in the discharge of his duties as a Trustee—the same Trustee was publicly accommodated with lodgings at large annual—an expensive but unnecessary establishment of clerks was kept up for the benefit of the Bursar,

whose subserviency has been all along purchased by packages and perquisites—the pretext for heaping up this establishment was sanctioned by the system of sales of the Estate—the sales themselves being not only unnecessary, but perpetrated in fraudulent breach of trust—and notwithstanding the ruinous diminution of the Estate the Council have little more to exhibit of the proceeds than a wretched hard rig house for the accommodation of twenty-four students—no revenue—and a large amount of unrecoverable arrears of rents and instalments.

It is notorious that the manner of conducting the sales has been no less illegal than the principle upon which they were effected. At various periods of the trust, a determined opposition has been given to the sale of land by various Members of the Council, who have succeeded in putting an end to open Council to a practice which has notwithstanding never ceased in the Surveyor's Office. A great portion of the sales has accord ngly been made without authority of the Council—and during the course of the last year nearly 10 000 acres were disposed of when the authority of the Council was in abeyance. The sales have at no time been made under statute of the Council as required by the Charter and indeed such have been the pressing necessities of the Council that valuable lands have been frequently disposed of at prices greatly below their real value, for the sake of an immediate instalment and no great anxiety has been exhibited in securing the balance of the purchase-money.

The disbursements of King's College from the year 1828 to 31st December, 1842 were as follows:—

Assistance given to Upper Canada College in fourteen years exclusive of interest amounted to	£40,130	4 4½
Purchase of the Site of the University College Avenue and Grounds Improvements &c.	12,148	1 0
University Buildings, &c	3,731	10 5
Management and Incidental Expenses,	14,787	15 9½
In all,	£70,797	11 0

In the Parliamentary Returns no details are given from which the liabilities of the University can be ascertained. It is certain however that at the date the Returns were made the obligations of the Council were considerable and under the head of "University Buildings" &c. upwards of £10,000 were disbursed in the course of the year 1843. In the absence of the details which were necessary to give any value to the accounts, it is difficult to make precise allegations of mismanagement and misappropriation but we are greatly within the mark when we say, that upwards of £100,000 have been dispensefully squandered out of the Endowment, before a single feature was delivered to the University. That no part of this sum has to any respect benefited the Institution, will be sufficiently obvious on an examination of the various heads of expenditure.

Upper Canada College.—The origin of this Institution has been noticed in the General History of the University. Its management having been placed in the hands of the College Council, it has participated to a large extent, in the

character which has attached itself to the University with which it was incorporated by the amended Charter. The inner College has been chiefly useful as a school for providing education, at a cheap rate, to the children of the higher classes. During the fourteen years in which it has been established, it has received a Parliamentary grant of £1000 sterling, per annum, and although it has also derived a considerable income from its own munificent endowment and from the fees of the Students, during the same period it has drained the University to the extent of £40,000, exclusive of interest. Although the dues had been fixed at a very low rate, yet, owing to gross negligence in their collection and a system of favouritism practised towards individuals, the sum of £4 [illegible] for dues, was given up as in arrear on 31st December, 1842. So long as the College Council have had the endowment of the University to fall back upon, the name College has been sustained with a profusion of external means without a parallel in any school in Great Britain. The average number of pupils has for some years been about 150, of which 100 have been day pupils, and 50 boarders. The Establishment supports no fewer than 11 Masters, exclusive of visiting Teachers, giving an average of 13 pupils to each. The salaries of the Masters are as follows:

Principal of U. C. College,	£666
Three Classical Masters, at £333 each	999
Mathematical Master	333
French Master	222
Two English Masters at £104 and £138,	242
Master of Preparatory School,	222
Master of Boarding House,	191
Drawing Master	75
	169

The dues for tuition are the only dues which are paid into the College funds. The Boarding Establishment is in the hands of one of the Masters, and the College Council is responsible to him for the deficiencies arising either from remissness or favouritism in the collection. The stationery used by the pupils, and the expense of keeping in repair the buildings &c., have been defrayed by the Council. The annual charges of the Establishment have amounted, for many years, to upwards of £4000. Taken on an average of the four years preceding December 1842, the dues for tuition have amounted to £1131 per annum. The sum actually collected has, however, fallen far short of that amount. It thus appears that independently of its own endowment and the College dues, Upper Canada College has received assistance from Parliament to the extent of £1000 and from the University to the extent of £2700 per annum. In the evidence lately given before a Parliamentary Committee by Dr McCaul who was Principal of Upper Canada College for upwards of four years, and ex officio a member of the College Council he admitted that if an offer of £1666 per annum, with a promise of keeping the buildings in repair and the grounds in order had been made the endowment would have been sufficient for a highly qualified Master to undertake the superintendence of Upper Canada College. The extension which he has made, however either in the capacity of Principal or as Trustee of King's College, to reduce the expenditure are unknown to the public.

ured, it is believed, have not been greatly felt by either Institution. During the course of 1843 when a vacancy existed in the office of Principal he attempted a characteristic modification of the system which was intended to have the effect of uniting the various offices of Principal Vice President and Professor in his own person. This attempt failed in the manner which will be afterwards adverted to. At present, it is sufficient to mention that in the face of repeated remonstrances to the late Sir Charles Bagot against the appointment of a Principal, on the ground of the unnecessary expenditure, and the emptiness of any of the Masters to fill the situation in which the President of the University concurred, we find an emphatic denial of the Chancellor's legal right to make the appointment, the same influence was used with Sir Charles Bagot's mind as successor to secure the office to the present Principal whose superior qualifications, as a pleader were at length discovered to be available in carrying out the intentions of the College Council.

UNIVERSITY BUILDINGS.—No portion of the buildings necessary for the proper business of the University has yet been commenced. The buildings formerly used by the Legislature of Upper Canada having afforded temporary accommodation for Lecture-rooms, Library, &c. In pursuance of the design of reducing the endowment by the erection of Commercial Edifices shewn for the consideration of the Synod the Council has expended the sum of £10 608 in the erection of a boarding house. This building is of a plain nature so that an estimate of the entire expense can at present be made. A sum of £1500 has lately been expended on a range of water-closets yet the building when completed, is calculated for the accommodation of only 24 Students. The Council have it in contemplation should a speedy sale of the Endowment be effected to construct the series of mean tenements for the accommodation of Students and Professors and have bidden for certain plans of the Council the prospective upon private accomodation as an inducement to erect all such.

In the mean time they will proceed to erect an Episcopal Chapel and Hall in front and to the rear of the present building. The expense of building for the domes accommodation of 100 Students may be estimated at about £30 000 or about one-half of the remainder of the Endowment. The great advantage expected to accrue from this scheme, will be the absorption of the available funds for High Church purposes, in order to frustrate any attempt to obtain a participation in the Endowment by the other Christian sects. To enable the Council to accomplish this nefarious scheme, they have lately opened up their sales, which can now be effected in the Bursar's office without the necessity of an application to the Council. Whether parties will run the risk of purchases which are void in Equity remains to be seen. There can be no doubt, however, that every purchaser will be guilty of a gross perjury in the first. The building already erected as mentioned to have been finished under the careful superintendence of the Vice-President, and in a keeping agreement of that peculiar style of such texture and internal economy which affords the least possible accommodation at the greatest possible expense. For the purpose of giving external symmetry to the building utterly devoid of

architectural grace, the upper range of apartments have been so constructed that the windows are exactly on a level with the floor—apartments of a few feet square have three of these walls constructed of cut stone, and a great portion of the interior has been deprived of all the benefit of light. The building has, on the whole, been regarded as a curious instrument for the imbecility of the Council, and is a striking instance of the impropriety of placing the administration of a public estate in the hands of a few Clergymen, whose profound ignorance of business is the most wonderful of their errors. The erection of this building was accompanied by one of those ingenuities—Jobs,—without which the Council seem to consider their schemes as altogether incomplete. For the purpose of evincing their partiality towards a favourite contractor, the tenders were not accepted till nearly three years after they were made. When the tenders were made, labour and materials were high. When the work was commenced, the price of labour had greatly fallen, and although it was known that the building would have been finished for two-thirds of the money, it would less than the sum originally tendered, the tenders were then accepted and the contracts entered into. An architect was employed to superintend the erection of this building and his services have been retained for an indefinite period, at a salary of £200. The labours of his undertaker, who may be regarded as a permanent officer of the Establishment seem to be principally dedicated to the amusement of the Vice-President, and to the gratification of his various caprices and passions and buildings, for the erection of which there is, fortunately for their necessary use means. The other buildings upon which the funds of the University have been so riotously squandered and misapplied are an Episcopal Chapel and an Anatomical Theatre. The chapel was fitted up by the Vice President when the authority of the Council was in abeyance. Although only intended for temporary accommodation the sum of £500 was devoted to the illegal purpose. The Anatomical Theatre cost about £300 and was also erected under the super intendence of the Vice-President whose versatile genius, "though equal to all things, for all things unfit," seems to range undismayed by known province over every department. The object of this building was to secure the domestic accommodation of the Bursar in the University; and has co-operated to the schemes of his patron. The Theatre was often rendered wholly unnecessary and its plan and purpose were carried into effect in opposition to the wishes of the Medical Faculty.

EXPENSES OF MANAGEMENT.—The principal feature under this head is the Bursar's Office. The statement of the annual expense of this department is as follows:—

Bursar's Salary,	£400	0	0
First Clerk,	175	0	0
Second do.	150	0	0
Extra do.	136	17	0
Messenger,	50	0	0
Sundries,	788	2	0
	£1200	0	0

This estimate was made for the years preceding 1843 the expense has some

considerably increased. This Establishment has all along been a nest of petty sinecurists. The employment of Clerks has been almost solely monopolized by the illegal sales of land. Were these sales put an end to, the Establishment would at once be reduced. Although the Bursar enjoys other perquisites from his patrons in the Council, yet his salary is extravagantly large, and is amply sufficient of itself for the maintenance of the Establishment. Under the corrupt system of management, which exists perhaps to a greater extent at the present moment, than at any former period of the management, all the important interests of the University is transacted in the Bursar's Office, without any consultation with the Council. The Bursar, in a private consultation with one of his patrons in the Council, may in one hour dispose of every acre of the endowment; and it is notorious that huge sales have been frequently made at sums much below the value of the lands. The real power of the Bursar is virtually worthless, but it is raised into consequence when combined with the advice and instruction of the President and Vice-President. It is an important fact, that at various periods of the trust, the Bursar has kept private accounts between the funds of the University and certain members of the Council, which accounts have not been patent to the other Trustees. His subserviency and co-operation have been purchased by petty favours at the expense of the trust. He has been appointed Steward for the superintendance of the Ball Dinners, with a salary of £40 and for the purpose of giving him a free house to which he had no claim the Medical Faculty has been deprived of Lecture Rooms and other accommodation in the University. Perhaps the most corrupt feature in the management is the Bursar's Office. Under colour of a pretended discretionary power, which would be illegal if it did exist, but which is at all times at the service of two members of the Council every species of jobbing and intrigue is carried on. The entire management of the estate seems to lead to be carried on upon a system of patronage. The other expenses of management have increased in a ruinous extent since the opening of the University. The Vice-President's expensive taste for lackeys and domestic officials burdens the University with the annual sum of about £1700. The aggregate fees of the Students during the first and second Terms, amounted to about £3500. This sum merely covered the amount paid to Dr Boys, as Steward and was exclusive of attendance &c which yield the Bursar other emoluments. The expense of keeping in repair the avenues and grounds amounts to £350 annually. When the Mountain Estate shewn shall be placed in operation, the maintenance of an efficient police may be expected to be a formidable item in the expenditure.

INVESTMENTS.—One of the most flagrant instances of violence of trust of which even the College Council have been guilty, occurred in their recent loan to the Cathedral Church of Toronto. The unvarnished history of this transaction is as follows:—The Churchwardens finding their resources utterly exhausted, and being without the means of raising an additional shilling on the security of the Church, applied to their friends in the College Council for an advance of £4500. Such an investment was of course illegal from the funds of a trust, but the College Council being virtually composed of Episcopalian Clergymen, the affairs of the

Cathedral were to them matters of much interest. Previous to the 29th enfum the greater part of the available assets of the University had been invested in Government Debentures bearing interest at six per cent; but as the desire to bestow liberality on the Cathedral blended harmoniously with their own interests, the means of propping its declining fortunes were speedily discovered and most unscrupulously used. The requisite amount of Debentures was transferred from the exchequer of the University to the hands of the Churchwardens, and as the transaction was regarded as a pious accommodation no such legal security was sought asked nor obtained. But the enormity of this fraudulent transaction is to be found in its connection with a collateral circumstance. *On the very day that the Debentures were transferred to the Churchwardens a negotiation was opened and completed by the College Council with one of the City Banks for a loan of £4000, to meet the pressing necessities of the University.*

Income of the University.—In the Returns submitted to Parliament, the College Council have estimated their annual income, as on the 31st December, 1842 at £11,859 2s. 8d. In the particulars of Income the University is credited with the interest on Government Debentures to the amount of £28 000 but upwards of £16 000 of Debentures have since been disposed of. These can be no doubt that under a proper system of management, the Endowment would yield the sum stated, and that if the Estate still in existence could be preserved increasing value would keep pace with the educational necessities of the country. The estimate of the Council has, however, been formed on a wilful misrepresentation of their true position. Arrears of rents have been allowed to accumulate to the amount of £16 798, and the instalments of purchase money now due amount to no less a sum than £31 747. It has been the practice of the Council to allow the purchase money to remain in the hands of purchasers as long as they pay interest and in cases where the parties were considered sufficiently unable to submit to the imposition *usurious interest has been charged*. As the arrears of interest already amount to £18 300 some conception may be formed of the improvident management to which the Estate is subjected. It is, indeed notorious that an unused six instalment will at any time tempt the Council to sell at almost any price; and the remainder of this purchase money is transferred to the depository of arrears. The greater portion of these arrears are irrecoverable; but the Council credit their accounts with interest on loans some the principal itself being irrecoverable. No attempt, however, is made to reduce the expenditure to the actual income—but an imaginary income is arranged by the Bursar and the heavy deficiences caused by negligence and corrupt management, are filled up by fresh attacks upon the capital. The system of exhausting per note is the last petition to be growing for the annual expenses of the University we must avoid entrenching upon the portion of these receipts (of proceeds of land sold interest, and rents) which should be reserved as capital on the other hand, *we need not confine our expenditure to the amount of rent and interest actually received* for, from the mode in which all was built property by tenements, the interest on which is receivable only as the instalment becomes due, and col annually upon the purchase

money outstanding; we may fairly expect part of the early instalments received, in anticipation of the interest accruing on the more distant instalments, which, when they become due, yield their accumulated interest." The introduction of this scheme was intended to give an air of plausibility to a system of speculation. No attempt has ever been made by the Council to adapt their expenditure to the amount of rent and interest either already received or anticipated. The expenditure has recently borne a due reference to the available capital in the hands of the Bursar; and were the same profuse expenditure to be continued, a very few years will be sufficient to swallow up the Endowment.

The existing Constitution of the Council is in every respect favourable to the designs of certain of its Members. Owing to the absence of the Law Officers of the Crown, the management of this University has fallen into the almost uncontrolled possession of a few Clergymen, who, profoundly ignorant of their value, are recklessly disposing of lands in various parts of the Province, and are leasing the Estate by contracts for siftings and imaginary improvements, to meet which no available means exist. Since all hopes of retaining exclusive possession of the Endowment have been shut out, the rashness and extravagance of the Council have known no bounds,—they have not concealed their design of imparting the Endowment before Parliamentary interference can be effected —and there is every reason to fear that their nefarious designs may to a certain extent, be successfully executed unless measures are immediately adopted to put a stop to their reckless proceedings.

NOTE.—It was our intention to have turned our attention over the proceedings of the new Council which has been formed under the Charter; but, for several reasons, we abstain from doing so at present. The short period however that has elapsed since the formation of this body has been sufficient to develop in the character and, as the whole of the recent proceedings are likely to be made the subject of parliamentary investigation, we think it advisable not to anticipate the verdict of the country. When that investigation shall have been made, we feel assured that the result will warrant a Supplementary Chapter in our history.

In the mean time it is due to the well interested community at the new Council to state that the profligacy of the old management has not quite shed itself upon the new without a strenuous and honourable opposition. It will scarcely appear surprising, that persons, some of whom had recently set foot from England and were in no degree versed in the mercantile practices of an Colonial Council, should have shrunk at the idea of sentencing the Trustees of a wholesale re-implicated on of the seventeen years educational endowment, for the sake of which they gave to a base system of plunder should have aroused the vengeance of the perpetrators. We should yet have occasion to publish more minutely the circumstances in reference to these proceedings; and in particular to the assertion said to have been made by Dr M'Caul the Chancellor of the manly conduct of two of his colleagues Professors Gwynn and Croly by whose firmness, without a bench, he hoped to have put an end to a high-minded opposition to his designs upon his Institution. It must in this connection, in the event of his Chancellor to be made a party the attempt will form a dark blot upon the early history of King's College as a Literary Institution. It was he remarked that the Vice Provincial appeal at the commencement of his assigned power by an attempt to crush two of his Professors having entered the Council because they had dared to exercise that right as Royal Provincial, a representing in the Legislature of their country but in consequence of the Union of the Provinces and the consequent absence of four of the members of the Council the Charter had become partially inoperative. This unanswerable Vice Provincial, with childish impetuosity, seized the first rumour of the retirement of the late Ministry to represent

to the Chancellor that such a proceeding called for the signal punishment of the parliament, because, forsooth, it was unprecedented! Good heavens, Dr. McCosh the arbiter of our civil intelligence! With what nice discrimination the shrewd wisdom of Bacon described a set of characters who seem to have ever had an evil-like propensity to frequent the seats of learning—and who, "knowing little history, either of nature or time, did set it no great quantity of matter, and infuse opinions of wits, pith enlargeth or straiteth." If the learner of Dr. McCosh will permit the investigation, Dr. McCosh will find abundant precedent for his dictatorial Petition to the Legislature even in the Institutions which he affects to admire without the ability to understand. The civil supply him with at least one remarkable instance.

On 21st March, 1834, Petitions to both Houses of the English Legislature were presented by Earl Grey and the Hon. Spring Rice respectively from the resident members of the Senate of Cambridge, all of whom were members of the Established Church of England. They were signed by two Heads of Houses, by ten Professors, (among whom were some of the most eminent members of the University of Cambridge,) and by eleven Tutors of the different Colleges. In reference to the character of the parties by whom the Petition was signed it will be as well to state that among the Professors, were Airy, Musgrave, Lee Hewish, Babbage, and Sedgwick—the first of whom had the year before distinguished himself by an eloquent and by Cambridge-men delightful tribute to a triumphant and unanswerable defence of his character as man, and patronis of Cambridge. Among his Tutors were Messrs. Precosh Hewish and Thirlwall—the latter one of the most eminent classical scholars in Europe. The Petitioners in fact embraced the great majority of the in ellect and talent of the University. They complained generally of the system which existed in Cambridge and which they considered inadequate wish and prejudicial to the interests of the University and to the general interests of religion. They announced their Petition by declaring the honest and sincere attachment of the Established Church, and to the University in that they are impressed with a conviction that no system [illegible] ecclesiastical policy was ever so devised by the wisdom of man as not to require from time to time some modification from the external circumstances or the progress of society. In conformity with those sentiments, they would suggest to your Honourable House that no Corporate Body in the University of Cambridge, can exist in a free country a honour or a safe body unless its members be admitted to a participation in every thing essential to a compatible with the Christian principles of its foundation. The Petitioners then proceed to state that, [illegible] upon which they think might be effected upon which advantage and safety they would submit to your Honourable House the urgent necessity of abrogating, by legislative enactment, every religious test enacted for the members of the University before they be admitted to degrees, whether of Bachelor Master or Doctor in Arts, Law and Physic. For, they assert consequentially believe, that if the power of this Petition be granted, the great advantages of general academic education might be extended to many excellent men who are now for conscience' sake debarred from a full participation in them, though true friends to the Institutions of the Country and your Petitioners are convinced that this is not the way to promote the public good, and to strengthen the foundations of the Civil and Ecclesiastical Policy of this Kingdom. The University is a body recognized by the law of England as a legal corporation, invested with important rights and privileges, and in that sense and resting on its secure foundation which is not a harmony with the moral system of its State Constitution, therefore humbly beg leave to suggest that as the legislative bodies of the United Kingdom have repealed the Test Act, and admitted Christians of all denominations to seats in Parliament, and to places of dignity and honour, they think it both impolitic and unjust that any religious Test should be enacted in the University previously to conferring the civil privileges in the degrees above enumerated. Such was the change prayed for in a Petition to the Legislature emanating from the very bosom of the University of Cambridge—from men of the highest attainments in literature and science—eminently distinguished for allegiance and love of University honours, all of whom were deeply judged and deeply interested in the welfare of the University and responsible for the due administration of its affairs—and yet a memorial by two of the Professors of King's College, Toronto, amply representing that

personal change in the Province had rendered its Charter in some respects inoperative, it made the subject of a serious complaint in the Chancellor, by a weak, but arbitrary, Vice-President, who vainly imagined that he had discovered in this constitutional proceeding the source of vindictive triumph. What bitterness given to a malignant expression by the Duke of Gloucester, Chancellor of the University, when the Cambridge Petition was presented to the House of Lords? Was it then that the same Chancellor regarded a subsequent Petition to the Legislature from some of the *Undergraduates* of Cambridge? The memorable words which the Royal Duke used on the latter occasion, should spoak daggers to the breast of the Reverend John McCaul. "Young man," said but Royal Highness, to one of the Undergraduates who waited on him privately with the Petition, "I disapprove of Undergraduates sending Petitions to the Legislature; but I cannot refuse,—admiring as I do the religious feeling that has actuated the Bachelors and Undergraduates,—to act upon the last words which I can urge, and the presidency of the chair. *I have been an Undergraduate myself, and am now your Chancellor—and I will advocate your cause, and present your Petition.*" In similar circumstances, Dr McCaul secretly suggests to the Chancellor the dismissal of two of his colleagues, because their Petition was "unprecedented!"

If Professors Croft and Gwynne had prayed for a change in the constitution of the University, on was dear to the Cambridge students, the Bench of the High Church party might have been justly alarmed; as if the matter could have been considered within the walls of the University with hopes of ultimate success, if any power had been inherent either in the Chancellor or Council, to prevent the exercise of the part on a Vice-President of too narrow intellect to grasp a constitutional principle so plain have been perplexed for offering a remonstrance to his colleagues, on their passing even the legitimate and academic mode of attaining their object, but had he consulted the practice of those Institutions of whose internal government he seems to be absolutely ignorant, he could never have hazarded the assertion that the proceeding was unprecedented. From the earliest times, objections have been made by members of the English Universities to the practices which prevailed in them, and charges of mismanagement have been brought in no very measured terms. In Acts of Parliament, and in Letters from the Crown, complaints have been made of abuses shared regular one. The Preamble of an Act passed in the reign of Edward VI. very justly begins with declaring "that the ancient Statutes of the Universities are obscure, mutually public, and some barbarous; and that others have been made and introduced more according to the corrupt time of the times, and to the pure use of the new learning have become repugnant." (See Dyer's Academic Unity) The Vice-President of King's College, Toronto, only sees in such objections an insult to the Chancellor and an "unprecedented" proceeding!

But the real ground of complaint lay in the honourable opposition given by these gentlemen to the degraded and corrupt system of mismanagement which has made the University of King's College a by-word in the Province. Dr McCaul found it impossible to secure their co-operation in passing a Statute for the Vice President's aggrandizement at the expense of the other Professors; and nothing but thousand world actions for no own personal injury. An effort was privately but unsuccessfully made to prevail on the other members of the Council to join in this mean and miserable conspiracy; but the proposal was indignantly spurned by all, except the Bishop of Toronto, who readily shared the odium of the charge and the disgrace of its unjust defeat.

During the Chancellorship of Sir Charles Bagot a Schedule of Salaries and Duties was laid before his late Excellency by Dr McCaul, and which was professedly framed in reference to a statement of the income of the University. In the Schedule Dr McCaul estimated his own services, as a Professor at £400—while the sum of £250 was attached to the office of Vice President. Sir Charles Bagot reduced the salary of Vice-President to £150 and raised that of the Professorship to £300—determining at another term Dr McCaul's own ideas of his importance. A Statute was prepared by Sir Charles Bagot in accordance with the appropriation, had transmitted to the Council *This statute was intercepted and cancelled*—this Chancellor's actions illustrating offered a favourable opportunity for defeating his intentions. On the arrival of Sir Charles Metcalfe, a new Statute was framed by the parties in Toronto in which, taking advantage of the addition made by Sir Charles Bagot to Dr McCaul's salary, to a

Professor, the sum stood was £300, and also taking advantage of Sir Charles Metcalfe's ignorance of the former Chancellor's arrangement of the salary of Vice President, the sum stood was £500. Will Dr McCaul kindly favour us explanation of the discrepancy!

But as the original Schedule of Salaries had been effectually preserved on a severe analysis of the measure, in adding £100 to one part of the expenditure, it became necessary to subtract a like amount from another, and therefore Dr. McCaul modestly and ingeniously reduced the salary of the Professor of Law to £100—being £50 less than the salary of the Junior Clerk in the Bursar's Office. Will Dr. McCaul fairly estimate the value which the public attach to the talents, attainments and efficiency of the Professor of Law and the Professor of Literature respectively?

The Statute of Sir Charles Bagot, which was clandestinely intercepted and unscrupulously produced by the minutes of the Medical Professors on a view of the duties attached to the corresponding Professors in the most eminent Medical Schools in Great Britain: and in accordance therewith the late Chancellor pledged himself to these salaries when the appointments were made. The Statute transmitted to Sir Charles Metcalfe was framed with the view of adapting the expenditure to an intermediate job perpetrated by the Council, [illegible] Professorship of £60 and to another of £150 yearly.

Will Dr McCaul explain the circumstances attending the appointment of the Professor of Materia Medica? Will he explain the ineffectual attempt to cajole the Masters of Minor Colleges into an approval of his conduct in a Memorial to the Chancellor with a view to the union of the offices of Vice President and Principal—the interference with the Statutes of the late Chancellor—the preparation of the present Statute and concealment of the former—his effecting the passing of a Statute to add £300 to his income, by getting the person through whose instrumentality he is tempted to secure the apparent approbation of the Masters—the tool whom he all along affected to despise—Ewart upon Upper Canada College, in violation of his own assurances to Sir Charles Bagot that he was unworthy of his appointment? These and many other questions of a still more serious character will assuredly have to be answered by Dr McCaul before the proper tribunal. The time has long gone past when a person in his position could be permitted with impunity to trifle with the sacred rights of the people of Canada, or to use them as commodity for his private aggrandizement.

CHAPTER VIII

THE UNIVERSITY BILL

The introduction of a Bill, during the last Session of Parliament, for the more effectual establishment and satisfactory government of the Collegiate Institutions of Upper Canada, was hailed with all but universal delight by the country. Nor was the intensity of the gratification diminished by the consideration that a measure for the more liberal government of these Institutions had emanated from the Local Administration and that the Bill had been framed by the Attorney-General for Upper Canada—whose enlightened principles of civil and religious freedom—perfect acquaintance with the condition of the country—and ardent sympathy with the feelings and wants of its people alone—afforded a guarantee for its thorough adaptation to the circumstances which had called loudly for its introduction.

The objects of the Bill were thus recited in the Preamble —

"Whereas it University for the advancement of learning in that division of the

Province called Upper Canada, established upon principles calculated to conciliate the confidence and secure the support of all classes and denominations of the people, would, under the blessing of Divine Providence, speedily promote the best interests—religious, moral, and intellectual—of the people at large; and whereas with a view to supply the want of such an Institution, his late Majesty King George the Fourth was graciously pleased by Royal Charter, bearing date at Westminster, the 15th day of March, in the Eighth Year of his reign, to establish a College at Toronto, under the name of King's College, with the style and privileges of an University, and afterwards by endowing the same with certain of the waste lands of the Crown; and whereas, with a like view, certain other Colleges and Collegiate Institutions have since then been established in the same division of the Province—one at the same place, under the name of "Upper Canada College," endowed also out of the public lands; one at Kingston, under the name of "The College of Regiopolis," endowed by private means alone; another at the same place, under the name of "Queen's College;" "The University at Kingston," in like manner endowed by private means alone; and another at Cobourg, under the name of "Victoria College" endowed by private means, assisted by a Parliamentary Grant—the two latter of such Colleges having likewise the style and privileges of an University: and whereas the people of Upper Canada consist of several and various denominations of Christians to the members of each of which no good distinction also desirable to extend the benefits of an University Education, and to such extent the just rights and privileges of all or those adhering to the religious opinions of any, by leaving the teaching of Divinity and the ordination of the Clergy and Ministers of Religion to Colleges Institutions incorporated into the University, but managed under their several Charters, in connection with the different Churches or other religious bodies contemplated by them For others as declared in such Charters respectively; and whereas, by an Act of the Provincial Parliament passed in the Seventh Year of the Reign of his late Majesty King William the Fourth, the Charter of the said first-mentioned College was in certain parts materially altered and extended in order as the Preamble to the said Act recites, to meet the desires and circumstances of the Colony and whereas for the more complete accomplishment of these desirable objects, it was judged to expedient to repeal the said Act and to institute some other provisions in lieu thereof for the purpose of providing for the separate and more efficient exercise of the Collegiate and University functions of the said Institution and whereas it is now to the same liberty to also expedient to alter and amend in several particulars certain other Acts of Parliament of the Province relating to others of the said Colleges and Collegiate Institutions respectively to confer upon such Institutions with the said University and to transfer to and vest in such University the sole power of conferring Degrees in the several Arts and Faculties in Upper Canada and to make some other provisions for the efficient establishment and satisfactory government of the said University Be it therefore enacted &c."

It was of course to be expected that the strenuous adherents of the dogmas of the High Church party in reference to the University should meet with considerable opposition but, singularly enough that opposition was confined to a minority of the College Council and with the exception of a Memorial to the Legislature by the Episcopal Bishop of Toronto, and an argument by Counsel at the Bar of the House on behalf of the Bishop and two of Rectors of co-religionists, not a murmur of dissent from the principle of the Bill preceded from any part of the Province. And but for the singular events which shortly terminated the Session the Bill would e questionably have become the law of the land.

The argument of the Hon. W. H. Draper at the Bar of the Legislative Assembly,

clause therein mentioned, not only on account of the eloquence and high legal attainments of the speaker, but as embodying all the reasons that could be effectively urged in support of the claims of the party whom he represented. It would be supererogatory to follow the learned counsel in his objections to the details of a measure no longer before the country; but as there can be no compromise of the *principle* contained in the University Bill, in whatever shape it may again be submitted to the Legislature, it may not be improper to conclude this historical sketch with an examination of these constitutional questions affecting the prerogative of the Crown and the legislative functions and powers of the Provincial Parliament, which formed so considerable a portion of Mr. Draper's argument.

As a question of constitutional law, the jurisdiction of Parliament in reference to the University Bill must necessarily be argued on the assumption that the powers and functions of the Provincial Parliament in local matters are co-ordinate with those of the British Legislature in matters affecting British interests. For if this position be not conceded, the analogies and precedents, which Mr. Draper has drawn and adduced from British practice, are but in their application where special rules for Colonial Government exist.

Assuming then that the Canadian Legislature has been endowed with powers of rather that there are inherent to its constitution powers corresponding with those exercised by the Legislature of England what analogies and precedents are furnished by British practice for the two leading propositions which Mr. Draper has laboured to establish? *First* — that the Legislature cannot without infringing on the prerogative of the Crown erect a new Corporation with the ordinary powers and privileges "and, *secondly*, —that it cannot (excepting as an act of will and power constituted by reason of principle) deprive a Corporation of the rights and franchises which the Crown has legally granted to it or in any way interfere with them without the consent of such Corporation."

The first of these propositions proceeds on an hypothesis—an assumed principle which Mr. Draper has not attempted to prove—that the University Bill asks the Provincial Parliament to exercise a creative power by calling into existence a new University, with all the privileges, immunities, and rights which usually belong to such corporations. But the Bill assumes no such position. It treats the University as pre-existent and actually in operation under a Royal Charter, and it not only invades no privilege or franchise formerly granted, but it actually gives such privileges and franchises further protection and extension by adapting them to an enlarged sphere of action. The Bill involves neither the destruction of one University, nor the creation of another—it merely provides for a union of the University privileges which had been previously granted by the Crown to separate Corporations, and by the union and co-operation of powers and privileges, it attempts to infuse vigour into rival institutions, whose vitality had languished under a separation of interests. If therefore there be any privileges peculiar to Universities which it is the prerogative of the Crown alone to confer—privileges

which are unknown to Statute, and independent of Parliamentary aid—their constitutional source has been amply recognised by the Bill

But no such privileges in relation to Universities are known to exist. Mr Draper has throughout his argument laboured to throw into the shade the greatness power of Parliament in erecting corporations and then by skilfully taking advantage of the obscurity in which the origin of the ancient English Universities is involved he has attempted to throw an imaginary distinction between the corporate character of literary and of other civil corporations, for which no constitutional or legal analogy exists.

That the crown has the power to erect corporations, and to endow them with privileges and franchises is undoubtedly correct—but Mr Draper, and not the law of England, has invested the Crown with the peculiar prerogative. Lord Coke lays it down that, "corporations may commence and be established three manner of ways, viz, by prescription, by letters patent or by act of *Parliament*"—(1 Inst. 183) and every Institutional writer since his time has adopted the same enumeration Mr Justice Blackstone does indeed state in the passage cited by Mr Draper, (after recognising the principle as enunciated by Lord Coke but in terms still less favourable to an absolute or peculiar prerogative for he scarcely requires as an ingredient the King's consent either express or implied) that "it is observable till of late years, most of those statutes which are usually cited as having created corporations, do either mention such as have been before created by the King, as in the case of the College of Physicians erected by Charter 19 Hen. VIII; which Charter was afterwards confirmed in Parliament; or they permit the King to erect a corporation *in future* with such and such powers, as in the case of the Bank of England and the society of the British Fishery So that the immediate creative act was usually performed by the King alone, in virtue of his royal prerogative."—(1 Com. 473) But the passage as thus partially quoted by Mr Draper contains merely an historical and not a legal justification of the principle laid down in the first part of the sentence which the learned Counsel has omitted to quote, that "By Act of Parliament of which the Royal assent is a necessary ingredient corporations may undoubtedly be created." And the reason that till of *late* years the mixed the creative act was usually performed by the King alone is virtue of the prerogative is to be found in the circumstance that in early times the nature and limits of Parliamentary jurisdiction as appli cable to an infinite variety of circumstances, had not been defined with perfect precision and that the facility of obtaining a Royal Charter was comparatively greater than by Statute On the other hand before the sixteenth century the prerogative was supposed to extend to every public case, and was accordingly exercised with an arbitrary disregard of those constitutional restrictions which render it wholesome to public liberty When Blackstone wrote the powers of Parliament and the prerogatives of the Crown were both equally understood and accordingly even that "very orthodox Judge"—as he is called by G bbon on account of his lean ag to arbitrary power—claims for Parliament the *general* exercise of this power which *till of late years* was usually exercised by the Crown. And since the passage

was written the greater number of new Corporations have received their privileges by Parliamentary Statute, in which the "Royal assent is a necessary ingredient."

To withdraw the Universities from the ordinary operations of the law, the learned counsel finds it necessary to assert: an imaginary distinction between collegiate and other corporations. But the law admits of no such distinction among Institutions in their corporate capacity. Although in early times the Universities were considered to be ecclesiastical, they are now regarded strictly as lay corporations. (Lord Mansfield in Rex v. University of Cambridge.) In this character they come to partake as well of the nature of civil as eleemosynary foundations—civil in respect of their machinery and government, and eleemosynary in reference to the tenure and administration of their Estate. In a question as to their constitutional modification they must necessarily be treated as civil corporations, and in the character Mr. Draper regards them.

The learned Counsel has wisely refrained from stating the specific privileges enjoyed by Universities which should withdraw them from Parliamentary jurisdiction. That Parliament should exercise a control over their purposes and objects is at least as clear as its undoubted right to control other civil corporations: That Parliament has no power to create learning or belief may be applied with equal truth to the prerogative as the Crown: but that the power either of the Parliament or of the prerogative may foster and encourage and give protection to associations and institutions for the promotion of learning as a matter of every day experience and practice.

Now, the only privileges which distinguishes Universities from other literary and scientific institutions is the power with which they are endowed of conferring degrees, which it may be said, must flow from the Crown as the fountain of honour. Assuming then that the University Bill really went the length of erecting a new corporation with University powers and privileges,—is the power of conferring degrees *ultra vires* of the Parliament?

It is very obvious that the assent of the Crown being a necessary ingredient in every legislative act—that assent obtained the powers which would flow from the regular exercise of the prerogative must form a part of the privileges which it is the intention of the legislature to confer. But although the power of granting degrees may be admitted to flow originally from the Crown as by courtesy the fountain of honour, yet this power by no means forms a part of the prerogative. It may be delegated to a subject—it may proceed from foreign authority—it may spring spontaneously from or it may be incidental to the subject matter of the institution which assumes the power. In the argument of Mr. Attorney-General Yorke in the case of *Dr. Bentley* he observed, "If the Crown erects a University, the power of conferring degrees is incident to the grant. Some old degrees the Universities have abrogated: some new they have created." Now the general rule of law undoubtedly is that where a subject matter is granted which has legal incidents belonging it, the incidents must follow the subject granted. The power of conferring degrees was therefore conferred on the Canadian Institution when the endowment was given and the Corporation

erected by Royal Charter No parliamentary modification which does not by express words deprive the Institution of that power can affect its legitimate exercise and the University Bill leaves this privilege unimpaired.

But even in the case of the English Universities, it cannot be maintained that the power of conferring degrees has, in every instance, flowed originally from the Crown and as the application of Mr Draper's historical argument mainly relies for its strength on the obscurity in which the ancient history of these institutions is involved, I may be proper to inquire somewhat more minutely into their origin than it would have been prudent for him to have done

In reference to their early origin and peculiar privileges, the Universities of England can scarcely be said to have come within the ordinary operations of English law The word itself and the things it may were of European consensus and growth and accordingly some of their privileges—such as that of the Vice Chancellor's Court which is governed by the principles of the civil law—could only be conferred or at all events must have been confirmed by statute unanimously as the Crown could neither confer nor confirm privileges which were inconsistent with the principles of the common law The privileges attached to the Universities of Oxford and Cambridge seem to have been similar to those held by the Universities of Paris, Bologna, Salamanca Louvaine and other ancient continental Universities The origin took place in circumstances common to them all and the perfect similarity in early times, raises a strong presumption that they were all created in the same manner and by the same power

The oldest Universities in Europe arose *spontaneously* during the twelfth and thirteenth centuries, and there can be still little doubt that they were all of nucleic natural origin The fame of eminent teachers, such as Irnerius at Bologna, and Abelard at Paris, attracted vast crowds of learners or students to the towns where the Schools were resorted. At first the immunities which these Schools enjoyed were merely of a local kind, they sought and had occasion for few peculiar public rights. Their growing importance and the vast concourse of Students from all countries at length made it necessary for them to be possessed of summary powers of discipline and internal government which were readily conferred by the local authorities, and the Papal and Royal powers would appear to have soon afterwards conceded the privileges which they had in the first place acquired from more limited authority Grants had been executed in their favour by pious and charitable persons for the purpose of maintaining Indigent Scholars, and these Grants were, with the privileges which the Universities had assumed or acquired confirmed sometimes by Royal Charter, but more frequently by Bull The Pope, indeed, at first arrogated to himself the right of vesting them with all these privileges and prior to the Reformation every University in Europe conferred its degrees in all the Faculties by authority derived from a Papal Bull. But after that event the Universities assumed to themselves the power of creating degrees. The University of Paris, as well as those of Oxford and Cambridge existed at first only in the lay Faculty of Arts the

Faculties of Divinity, Canon Law, and Medicine, were afterwards assumed by themselves

If then the Universities of England have the power of creating or abrogating degrees at pleasure what privileges exist which are in the peculiar prerogative of the Crown to create? Then civil law jurisdiction could only be exercised under the authority of statute, for if that privilege had been conferred by the Crown alone it would have been tantamount to making new laws, which the Crown, as one branch of the Legislature cannot do without the aid of an Act of Parliament and again the right to the enjoyment of their property may have been, and actually was acquired by private grant or by prescription

It is certain that the greater part of the property held by the English Universities was acquired from individuals, and at so late a period as the hours of the founders, notwithstanding their Royal confirmation still possess a statutual power by virtue of the common law Both at Oxford and Cambridge these establishments are chiefly consisted of two distinct foundations—the University proper and the Colleges. The former was originally an founded and privileged by public authority for the general benefit, while the latter were founded and privileged by private munificence for the interest of certain favoured individuals. The University proper existed prior to the Colleges the former having been instituted for the purposes of education and the latter principally for the relief of need and indigence. At Oxford and Cambridge at present the Universities may be said to be in abeyance, or at least to exist only through the Colleges, and this fact has afforded ground for argument to the High Church party in England against the admission of Dissenters, that the Colleges be as foundations private to their incorporate members, the Legislature cannot deprive them of their right of optional exclusion without a subversion of the institution But as admission to the Universities cannot be obtained without a previous entrance into one of the Colleges, the disfranchisement of the Universities and the usurpation of the Colleges have both been accomplished through an illegal suspension of some of the University privileges "

" The peculiar constitution of the English Universities is very important to keep in view, when an attempt is made to draw analogies unfavourable to parliamentary jurisdiction over the University of King's College in Canada. In an elaborate defence of Oxford its privileges are thus stated — "There are moreover some points in the constitution of this place, which are carefully left out of sight by reviewers, but which ought to be known and well considered before any comparison is made between what we are and what we ought to be. THE UNIVERSITY OF OXFORD IS NOT A NATIONAL INSTITUTION It is a congeries of foundations, and of growing, some as Royal as an Academy, but more as private piety and bounty They are considered indeed into one corporation But each one of our twenty Colleges is a corporation by itself, and has its own peculiar statutes, not only regulating its internal affairs, but confining its benefits by a great variety of limitations.

The argument used by the High Church party in England, will however operate powerfully against that urged by Mr Draper in Canada In England the jurisdiction of Parliament over the University was long never been denied—its equal right to interfere with the Colleges which are private foundations has been questioned, and although a Bill for the admission of Dissenters has been passed in the House of Commons by a

That the English Universities have received Charters from the Crown, may be admitted, without vainly ascribing the foundation of Oxford to Alfred, or of Cambridge to the earlier Princes as has been done by their respective partisans.[a] Edward I. we are certain gave a Charter to the Universities, but this was merely a recital of the confirmation of the Deeds of foundation previously given by private persons—who, notwithstanding the King's Charter, retained their visitorial powers as founders under the common law.

The power, indeed, which the Crown appears to have exercised in former times over the Universities was very considerable, and it certainly has not been unchallenged by constitutional authorities. In 1549 Edward VI. sent down by commission several visitors to Cambridge to alter and reform the statutes of some of the Colleges. This commission was issued, however, not upon the King's general visitorial power which he exercises by virtue of the common law over charitable foundations where no special visitor has been appointed by the founder, or where the right of visitation, in default of heirs, devolves upon the King, to be exercised by the Great Seal,—but proceeded strictly and was derived from his supreme authority in matters ecclesiastical, for the time of the papal authority in England. The power of visitation conferred on the Crown by 25 Henry VIII. was also purely of an ecclesiastical nature and indeed was a mere transference of the power that had been claimed and exercised before that time by the Pope as Head of the Church. In those times Universities were considered to be ecclesiastical foundations but both the deeds and the power have since been exploded. The interference of Charles II. by Letters Mandate was an act of arbitrary dispensation which cannot be supported at the present day.

When a proposal was made by William III. of a Royal visitation Lord Chief Justice Holt denied the right of the Crown to interfere, and Lord Chief Justice Wilmot expressed an opinion on at once adverse to the right of the Crown and favourable to Post-reformatory jurisdiction.—"I have long been a warm advocate for our Universities," said Lord Chief Justice Wilmot, "and for that reason perhaps, have been too rigid and severe a disciplinarian, for their existence depends upon the naturalness and honour of the tutors and heads of houses, and whenever there was large room to, yet, independently of other obstacles, the reluctance of the English Legislature to intrust to it the wide rights and privileges previously enjoyed, sufficiently accounts for its temporary decay in the House of Lords. But in Canada the Endowment and the University are undoubtedly public, and may therefore properly be made the object of legislation.

[a] The origin of the English Universities, as traced by the profound research of Mr. Hallam, would appear to be involved with even a deeper shade than that with which antiquity generally confounds the early history of literary institutions. The earliest authentic record of Cambridge as a place of learning, as I have already stated from Matthew Paris, who informs us that in 1209 John having caused three Clerks of Oxford to be hanged on suspicion of murder, the whole body of scholars left that city and emigrated, some to Cambridge some to Reading in order to carry on their studies. But it may be conjectured, with some probability, that they were led to a town so distant as Cambridge by the previous establishment of academical institutions at that place. The incorporation of Cambridge in 1231 (15 H. any III.) so that there is no great difference in the legal antiquity of our two Universities.—*Hallam's Middle Ages*, Chap. 3, Part 2.

a total relaxation of discipline, if they either [illegible] not take care to know or whenever they come to see at all on *the Parliament must and ought to take the reformation of them in their own hands*, and attempt to secure the rising generation from vice and ignorance by some new system of ecclesiastical government." Lord Mansfield, in the very case from which Mr Draper has quoted, admits that "the Crown did formerly exercise a power over the Universities which cannot be supported by any sound principles of law"—(Rex v. University of Cambridge)

Over all corporate property the Legislature has always exercised a high and special trusteeship; and the prerogative of the Crown is at the same time clearly defined by the common law as consisting in a visitorial power to see whether in the lapse of time the intentions of the founders have not been frustrated. Parliament and the Crown are alike entrusted with the power of erecting Corporations and giving them Charters, the only difference in the practice being in the change effected by the Revolution—that where the power on the Crown was formerly supposed to be sufficient of itself to meet all cases, the Royal authority must in certain circumstances be exercised legally and constitutionally through the medium of both Houses of the Legislature. There can be as little doubt of the power of the Crown thus constitutionally exercised, to erect and found new Corporations, whether the versatile or other evil foundations as there can be of its constitutional exercise in the bringing of such laws or have become unnecessary or expedient. But whenever a Charter has been confirmed or altered by the Legislature, whether that Charter was originally public or private, the power of the Crown alone is considered [illegible] to further modification and hence the decisions of Lord Mansfield referring to certain new grants which had been made by Queen Elizabeth to the University of Cambridge, subsequent to a Parliamentary interference and which Mr Draper has twisted and triumphantly quoted for another purpose—that "the validity of these new Charters must turn upon the acceptance of the University." That learned Judge, indeed, lays it down that the Crown alone cannot take away them rights or give them Statutes or Charters without the own voluntary acceptance,—as was the case between Charles I and the University of Oxford —but it may be doubted how far stand ng the dictum of Lord Mansfield whether the voluntary acceptance of new Charters by the Universities would not be legal and would not be tacitly assented to as alternative which could only be effected by the aid of a Parliamentary Statute

If however we are sent back to ancient usages—I we are referred to the wisdom and acts of our ancestors—we cannot doubt on historical grounds that Parliament has not only exercised the full and absolute power of altering by legislative enactment with the practice and regulation of the Universities but that the Universities of England are in fact great National Institutions, supported and maintained by acts of the Legislature—that the Charters privileges and rights are secured by Acts of Parliament—that some of the highest advantages have been conferred on them by the same means—and that the most important right which they legally enjoy—the right of possessing that which formerly belonged to the Catholics—has been conferred by the very instrumentality which

the Advocate of "the chartered rights" of King's College repudiates and condemns. In the reigns of Henry VIII., Edward VI., Mary, and Elizabeth, enquiries took place into the condition of the Universities by commission, and the result of each of the commissions was the alteration, by Parliamentary Statute, of the regulations and proceedings of the Colleges constituting the Universities. The Statute passed in 13th Elizabeth, upon which Mr. Draper has laid considerable stress as having been "framed by the authority of the Crown and probably introduced by the Ministers," was in fact the result of one of those commissions, and besides embodying the spirit of the *Statuta Antiqua*, or bye-laws of the Universities, and of the various Acts of Parliament of the Reigns of Henry VIII., Edward VI., and Mary, which have always been regarded as the ancient constitution of the Universities, was also designed to effect various important alterations in their constitution, and was framed not merely with the view of protecting the government but also of regulating the appropriation of the revenues of the several Colleges. But whether it was "framed by the authority of the Crown," or "introduced by the Ministers," will probably little affect its validity at the present day.

The argument of the learned Counsel as applied to the Irish and Scottish Universities, is equally destitute of legal and historical accuracy. He has passed over Trinity College Dublin with the brief observation that it received its Charter from Elizabeth, but has not enquired further into the history of that Institution he would have discovered that it was pregnant with analogies and precedents for the modification proposed by the University Bill. Passing over its early history,—even so recently as 1793—in an Act of Parliament was passed to establish in Trinity College three additional professorships. And in 1793, an Act was framed by Mr Pitt and was passed by the Irish Parliament for the purpose of modifying the University to an extent which was decried as subverting its Chartered Rights," and undermining its ancient constitution.

By ancient Statutes the Dissenters were admitted into the University of Dublin without religious tests but the Roman Catholics had been all along excluded from the offices and honours. Mr Pitt's Bill was intended to relieve the Catholics considerably not at once and merely excluded them from the offices of Provost and Fellow. Two or three Catholics were accordingly soon after the passing of the Act admitted to Scholarships but as the Statute did not in express words take away the oaths of supremacy and the declaration against the transition of the Fellows have hesitated to enforce them against any Catholic on admission to Scholarships and have thus prevented the Catholics from aspiring to that honour. The Statute was however passed by a Parliament of which the Provost was a member and the Representatives of the College were acquiescing parties. So far indeed as the University itself was concerned there was but one objection and no opposition—and the objection was made not that to the prohibition was sacred right of Parliament to legislate but it was considered by the party who urged it that no Roman Catholic should be admitted to exclusion from any of the offices or honours. The amendment was proposed by John Christian Beresford

—a name of dreadful import by to Roman Catholic ears—and in the speech which he delivered on the occasion he is reported to have said:—"God forbid that I should ever see the pious intentions of the Royal Founders of the University frustrated by any perversion of the privileges or revenues thereof. If it be determined to open the University to Catholics, let the British Museum first receive an Act of Parliament to open the English Universities, and then the bitter potion may be more readily swallowed by the infatuated and betrayed proletariats of Ireland."

Mr Draper has omitted any reference to the Roman Catholic College at Maynooth (which was founded in 1795, *exclusively by an Act of Parliament*).

Nor is the learned Counsel more fortunate in his reference to the Scottish Universities. The University of St. Andrew's was founded by Henry Wardlaw Bishop of the Diocese in 1411 and was confirmed by Papal Bull in 1413. The College of St Salvator was founded by Bishop Kennedy in 1458; that of St. Mary, by Archbishop James Beaton in 1537 and that of St. Leonard in 1512. In 1747, the Colleges of St Salvator and St. Leonard were united by Act of Parliament.*

The University of Glasgow was established in 1450 by Bull issued by Pope Nicholas V., and it is worthy of remark, issued at the request of James II More than one Act of Parliament has been passed in reference to this University.†

King's College Old Aberdeen was founded in 1494 by Bishop Elphinston, Lord Chancellor of Scotland in the Reign of James III., and Lord Privy Seal in that of James IV. The King afterwards claimed the patronage of the College Marischal College New Aberdeen was founded after the establishment of Protestantism in Scotland by William Earl of Marischal and the deed of foundation was confirmed by Act of Parliament within three months after its execution.‡

The University of Edinburgh was founded by the citizens who obtained a license

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* "The University of St Andrew's," says Malden, "was founded by Henry Wardlaw Bishop of the Diocese in 1411. The King James I of Scotland, the Bishop and the Heads of the Augustine Priory at St. Andrew's request obtained Papal sanction, and accordingly a Bull was issued in 1413, by Benedict XIII., by which it was made a University and granted a *jubilee for all the Faithful*. It received other benefactions from the Church which were confirmed by the King in 1432, and he at the same time granted to all its members an exemption from taxes—a privilege confirmed by his successors.

† The University of Glasgow was established in 1450, by a Bull of Pope Nicholas V.—issued at the request of James II.—Authority was given for the institution of the general study of all Faculties and the Universi y was empowered to grant Degrees, wh ch should be valid throughout Christendom. In 1453 a Royal Charter was granted by James II which is an exemption from taxes and all civil burthens. —*Ibid.*

‡ "Marischal College and New Aberdeen would claim to be a separate University was founded in 1593. The Founder, William Earl of Marischal, directed the Principal to confer the Degree of Master of Arts upon Students who deserved it; and, as the deed of foundation has been confirmed by more than one Act of Parliament the College is an authorized University. —*Ibid*

from James VI. for founding a College within the city. In 1621 an Act of Parliament was passed, ratifying its various grants and among other things authorising the University to confer Degrees.*

Mr Dugald's reference to the Scottish Universities is completely false. Not one of these Irish unions owed its foundation to Royal Charter but they were all founded and created by private grant by Papal Bull or by Act of Parliament. All the Scottish Universities were re-modelled under the auspices of Buchanan at the time of the Reformation so as to adapt them to the materialistic views of the community. In the course of the last century Faculties of Medicine and Law have developed themselves and in 1826 27 a commission of inquiry was set on foot the result of which has been the adoption of many practical reforms and useful alterations in these Institutions.†

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* In 1561 the citizens of Edinburgh obtained a license from James VI. for founding a College within the city and in 1582 added by various donations they procured a suitable site for the Provost and Town Councillors empowered to repair and build houses for the reception and habitation of Professors. The Town Council proceeded first upon the same and opened an school my at first under a single Regent augmenting the number of teachers from time to time according to the increase in the number of Students. In 1586, he King granted power to add to the College the Mathematical and Town Council in the interest of the College and in 1612 he gave a Charter confirming all that they had done. In 1621 an Act of Parliament was passed in favour of the Royal Endowments, and the erection of the College into a College for the purposes of theological Learning and Learning, the granting in favour of the Provost of Edinburgh, Patron of the said College, and of the regents and students in the same all the liberties and privileges pertaining to any College within the realm. Queen in liberty within the University to confirm Degrees. The College as in every respect subject to the Magistrates and Town Council of Edinburgh. No account found was given to the House of the Visitors. The Town Council are the absolute patrons of the Professorships of their own first nomination, and of the whole of Principal. The College consists at present of three Professors of whom twelve are appointed by the Town-Council and eight are appointed by the Crown. The Professor of Botany holds commissions from both. The remaining two are of a mixed number, the Town Council have seven in all. The Session Academical consists of the 1st year and all the Professors. This body in not legally constituted by any of the original deeds but has emerged from the act only by usage. By the entire collection of the University of Edinburgh to the Town Council the Professors are relieved from all care of the financial concerns, and of the funds and building &c. I ought be empowered accordingly to examine that such matters would not be well managed by bodies of literary men and the experience of the other Universities developed in the Report of the Royal Commission of Inquiry into the state of the Universities of Scotland amply confirms the suppose but. The Council not only of the vacant chairs and of the presentees to University from the absence of a and I need not point out that in case any one has a grave prejudice against a candidate to be for the introduction of science and general education to act only as the existing Professors may have any monopoly of teaching or close that society against the new member. The Council has the discretion to leave all matters of discipline and ordinary detail to the Principal and Professors who by its superintending power it can check any such practices as self governed corporations are but too liable into, tending to the present benefit of the individual members to the loss to the permanent benefit of the whole body

† The Scottish Commissioners were empowered to enquire into the mode of granting Degrees and of teaching, and were directed to look narrowly into the revenues of the said Universities and its management thereof. Nor did the Scottish Commissioners restrict the duties into of their founders. It was one of the

The reference to the University of Durham and the London University, is not strictly applicable. These Universities are privileged by Royal Charter, but it is inaccurate to say that from this source they derive the very existence. Both Universities are strictly private foundations, and on account of the tolerant principles upon which they were established—they were assailed with rancorous virulence by the Anglican party. The characters and motives of these founders were maligned and their objects misrepresented in every style that High Church ingenuity could devise; and with the determined and cordial opposition of the Bishops, the passing of an Act for their Incorporation would have been a hopeless attempt. But the reference to these Universities neither strengthens the one case nor weakens the other. That the Crown has power to incorporate a University, either civil or ecclesiastic, may be admitted without admitting an infringement on the right of Parliament to do the same.

In the two instances cited by Mr Draper *from Canadian experience*, unwarrantable inferences have been drawn from the facts. He says:— "The University of Queen's College at Kingston is founded by Royal Charter, the Act of the Legislature enacting it having been disallowed." But the Act of the Legislature was disallowed on *the application of the Trustees of Queen's College* which is strictly a private foundation,—not for the purpose of changing its constitution or powers—not because it had been discovered that Parliament had no right to legislate—but in order that the University might undergo a change in its name and that it might occupy a place in public estimation to rival in its exclusive University of King's College from the privileges of which the Presbyterians had been unjustly debarred. Upper Canada Academy, now Victoria College was incorporated by Royal Charter in 1836 and was often wards *by Act of the Colonial Legislature* erected into a College with University privileges and powers. The application for a Royal Charter in the first instance, was occasioned, not by any doubts of the powers of Parliament in the Canadian Parliament but solely by local circumstances which did not for a time give any reasonable prospect of obtaining an Act of Incorporation. and Lord Glenelg then Colonial Secretary, acting under the advice of English Counsel hesitated as to the propriety of a Royal Charter on the ground that the Crown could not to create any Corporation in the Colony that it was competent to the Legislature to create." The Charter for the incorporation of the Academy was only obtained after assurance had been given to the Colonial Secretary that the Institution was in harmony with the views of the House of Assembly.

If then the question of University Reform depends upon historical and legal precedent the Canadian Legislature cannot scarcely hesitate to exercise those powers which have been constitutionally vested in the respective Parliaments of England, of Ireland and of Scotland, which exist in supreme majesty in the Parliament of

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subjects of special interest that an enquiry should be made into the ancient foundations or establishments, as they are called in the Statute Law. The Commissioners had also power to enquire into elections and power was given them to frame a Code of Laws and Regulations for all the Universities.

the United Kingdom of Great Britain and Ireland and which have been expressly recognised by the Imperial Government, as existing in the Colonial Legislature, with the fullest application to the establishment in question.

It surely cannot admit of doubt that a person must exist on the constitution to adapt laws to the ever varying, wants and circumstances which the moral and physical elements of which society is composed are ever producing. If it be beyond the power of the Crown to interfere with an institution which has already been made the subject of parliamentary legislation, on its defects, its corruptions, and injurious tendencies at once to race re constitutional protection and to escape from constitutional control! As there is a moral duty so there is an inherent power on the part of a government to make the laws of a country conducive to the happiness of its inhabitants and no law can be properly maintained either after its object has ceased to exist, or after it has become positively injurious. As society is progressive so the laws which govern it must be adapted to the changes to which it is exposed.

The right of parliamentary legislation over every other branch of the constitution is recognised and proved in every page of the history of England. The attempt would scarcely succeed at the present day to set up divine right legitimacy and power above parliament against the necessities which new interests and new principles have created. If the acknowledgment was wrung from Charles I that —the King's prerogative was but to defend the people's liberties" it is scarcely to be denied that the people through their representatives, are the proper judges whether it should be restrained when it proves unfit. — My Lords" said Holborne in his noble defiance of Hampden — whatever estate you or the king or the pope or any one in him so regardless not at him in his natural capacity and what is in him so in for the benefit of the kingdom."

But how idle it must be to argue the constitutional right of parliamentary control over a civil corporation in a country which has received in transcript of the British Constitution and among a people who take it from the fathers the noble legacy of England's history and laws. We have but to grant to the maxim on which the succession to the Throne of England depends to find that the right of hereditance therein may from time to time be changed or limited by Act of Parliament" (3 Black. 194), and to the instances in which that right has been exercised to be satisfied that when a moral necessity for change may arise the powers to effect it will be found to exist in the Legislature.

"A legislative Act" said Mr Burke in his argument on the Middlesex election, on the occasion of the expulsion of Mr Wilkes from the House of Commons by an example resolution — a legislative Act has no reference to any rule but these two—expediency and justice and ascertain any application. It neither can give rights, rights where no rights existed before and it can take away rights where they were before established. For the law that binds all others, does not and cannot bind the law maker, he and he alone is above the law." The ultimate power and jurisdiction being thus ascertained to exist in the Parliament, it would be

difficult to discover any higher or stronger obligation on the consciences of legislators than the consideration of the public benefit and therefore in reference to the modifications of the public endowment, the questions that require to be satisfactorily answered, previous to parliamentary interference, are simply,—Is the present system expedient and have the Trustees discharged their trust with fidelity?

The real question then before the people of Canada is the expediency—the moral necessity of a change in the present system. And if at a particular period of the history of Canada, when an Episcopal ascendancy was paramount in the Councils of the country, it was deemed expedient to appropriate and set apart a magnificent endowment for educational purposes, and to place that endowment and the direction of education exclusively under Episcopal control will it be maintained, when the country has from a diversity of causes become divided into many religious communities, each community by being in the enjoyment of perfect equality in civil and religious privileges, that every advantage from the endowment shall be confined to the Episcopal members of the community who now form one of the least of the variety of sects one—that the privileges attached to the University must be perpetuated for the sole benefit of the original class, and that new appeals to our principles must be refused to parliamentary or public rights either on the ground that their interests were not at one period contemplated and recognised or that the monopolists refuse their consent to a participation? If the University was intended to be a National Institution can we look at the numbers, the wealth, the character and intelligence of those who are excluded under the present illegal system and say that it is expedient to deprive so large and influential a portion of the community of the benefits of a University education—that it is just or expedient to expose them to the feeling that they are ill used by the laws of their country by being precluded from the enjoyment of benefits which are open to others by the illegal regulations of any particular Establishment? What is the principle involved but the right of every man to religious freedom and liberty of conscience—a right which none dare publicly to controvert, but which the Trustees of King's College have dared to infringe by a secret violation of the law? Is it not enough to prove that the Institution only accomplishes a small part of the purposes for which it was established by law, to shew the progressive necessity of giving it more enlarged and national usefulness? And is it of no importance to the interests of the country that persons differing in their religious opinions, but agreeing on other subjects, should not be estranged from each other on the ground of creed—that instead of imbibing those principles of tolerance and those feelings of Christian charity which a joint system of education would produce a spirit of hostility should be engendered, by the influence of which they must become more estranged from each other in their literary and scientific pursuits? Can it be expected that the youth who have been confined, during the progress of their education in the choice of their associates, to a particular Church will be easily brought to believe in their ripe years, that the Christian virtues and graces flourish and are equally diffused

among Christians of all denominations? But on the other hand, by a combined system of education—by the ties of affection and good will, which would be fostered even the intolerant denunciations of their respective Churches, which are the relics of other ages when parties were brought into collision in the struggle for their civil rights and for religious supremacy would lose all the power which they would otherwise have in perpetuating that unnatural spectacle of persecution, which robs social life of its endearments and invests a public career with half its interests.

Nor will any remedy less solemn than a declaration by Parliament of the equal rights of all denominations to a full participation in the advantages of the Institution meet the exigency of the case or restore public confidence to the Institution, or satisfy the country. Were the Amended Charter complete in its details, and were the compliant confined to a mere perversion of trust, the remedy—whether consisting in the restoration of the trust purposes or in the personal removal of the Trustees—might be found in an inferior judicatory. But it must be recollected that the law—notwithstanding its recognition of the principle of equality—was conceded and framed by the party favourable to exclusion, and at a political crisis when the benefits of education were unrepresented in the Legislature and that its gross and glaring defects are such as to render it in many respects useless and inoperative. The law must be so framed as to prevent a corrupt administration—and when badly administered, it becomes the duty of Parliament to remedy those defects which have exposed it to perversion. The principle of equality as already recognised must be guarded by practical and efficacious rules and checks to secure its healthy operation and it is no less the duty of the Legislature to watch, with a vigilant eye the spirit of the age and adopt its measures to the changes produced by time than to exercise a strict surveillance over the administration of the laws so as to protect their principles from corruption or perversion. Nor does the existence of a subordinate judicatory for enforcing the proper administration of the laws, deprive the Parliament of its judicial adaptation to the least as well as the greatest objects its powers and its actions, as the supreme tribunal in the State are applicable in all circumstances, whether in declaring the meaning of the law with greater precision or in correcting those mistakes which have occasioned either misconception of intention or corrupt administration.

The argument of the learned counsel assumes that the Bill proposes to interfere with and take away privileges liberties, and franchises, which the Crown has solemnly granted under the great seal of the Empire. But what "grandeur liberty or franchise" was enjoyed by the University which was not largely extended by the Bill? No part of the corporation was changed but its name—and what more common than for a corporation to change its name and retain its powers, rights and privileges? The objects and purposes and subject matter of the corporation remained the same, but an extension of its advantages was proposed by the modifications and adjustment of its machinery. It is

shrank to talk of destruction by a corporation, when every end of the existence is clearly recognised, and every power which it holds is legally maintained.

Now, the University, as a corporation, was preserved in all its integrity, and in the unimpaired possession of its "privileges, liberties, and franchises." The other Colleges asked for no separate lands, no distinct franchises—they did not even aspire to participate in University privileges, for they surrendered them which they held—they asked no extension of their charters—no new powers which were adverse to the rights already established—all that they asked, and all that the Bill proposed to give them, was, that the students might have the privilege of attending the Lectures in Arts and Science established out of a public endowment, and that that endowment might be so administered that such privilege should be enjoyed without offence to their conscientious convictions. The separate Colleges in the University of England have been endowed and privileged by private individuals. Surely that which has been done legally in England by the piety or munificence of individuals, may be constitutionally accomplished in Canada, without stretching to an undue degree the jurisdiction of the Parliament.

But the argument of old staunchionment can be maintained with little either of grace or effect by the person who framed and introduced the amended law which recognised to the fullest extent the very principle which the Bill of the present Session sought more thoroughly to practice. By the introduction of the Amended Charter Mr. Draper as a legislator gave his solemn sanction and personal approval of the principle which Mr. Draper as of Counsel for the Trustees of King's College afterwards called upon the Commons of Canada in the name of them God, their Queen and their Country to condemn. Was not the sole object of the Amended Charter to declare the Episcopal Church of the *exclusive enjoyment* of the varsity "privileges, liberties, and franchises?" Did it not expressly recognise the equal rights of all denominations of Christians in Canada to an unconditional participation in those privileges, liberties, and franchises; and have not the Trustees of King's College fraudulently distranch-ed the people of Canada of the "privileges, liberties and franchises" which Mr. Draper's own Statute conferred upon them? And moreover, did not Mr. Draper's Amended Statute to the fullest extent recognise the powers and jurisdiction which as an advocate he affects to repudiate? True it is that the Crown gave its sanction to the amendments—true it is that the Crown attended the attention of the Legislature to the improvement of the Charter." But will the invitation of the Crown arrest the Legislature in power and jurisdiction which are not inherent in its constitution? Must the validity of Acts of Parliament be tested by drawing from grants and musty obscurity ascertain evidence of the charter having been framed by the Crown? or will having been "probably introduced by the Ministry"—or if the invitation of the Crown invests the Parliament with its own potency" as the Despatch of a Colonial Secretary to wash the charm which the Bill of an Attorney General is supposed to produce?

But in what character do the Council of King's College appear at the Bar of

the Legislature to protest against a measure for the modification of a public endowment? If the Council of King's College have been invested with franchises, they are of a public nature, and they as well as the end aimed to which they are attached, are held in trust for the benefit of the whole community. There is an obvious distinction between private property vested in individuals as such, and property vested in individuals in the character of public Trustees, and therefore held by them only for the public benefit. There can be no claim on behalf of these Trustees in their own persons, for the University was erected into a Corporation merely for public purposes. Now a Corporation is an ideal being—a legal fiction—an incorporeal shadow endowed with vitality and power solely by the creation of the law for the purpose of holding rights in trust for the public interest. If any of the Trustees aim at the enjoyment of a life-rent, there is to that extent a personal right, but I know there is simply a Trust which must be held and expressed for the public benefit.

But as all Trusteeship, pre-supposes confidence between the parties, when that confidence is lost, the office of Trustee may be recalled. For the Trustee can have no personal interest in the retention parties of his office, and therefore the interest at solely in the parties for whose benefit it is held. In the present instance the beneficiary right is vested in the public who must therefore be possessed of the power to remove their Trustees. The resumption of the endowment would in fact be nothing more than the removal of the Trustees, even were that endowment to be applied to other than Academical purposes.

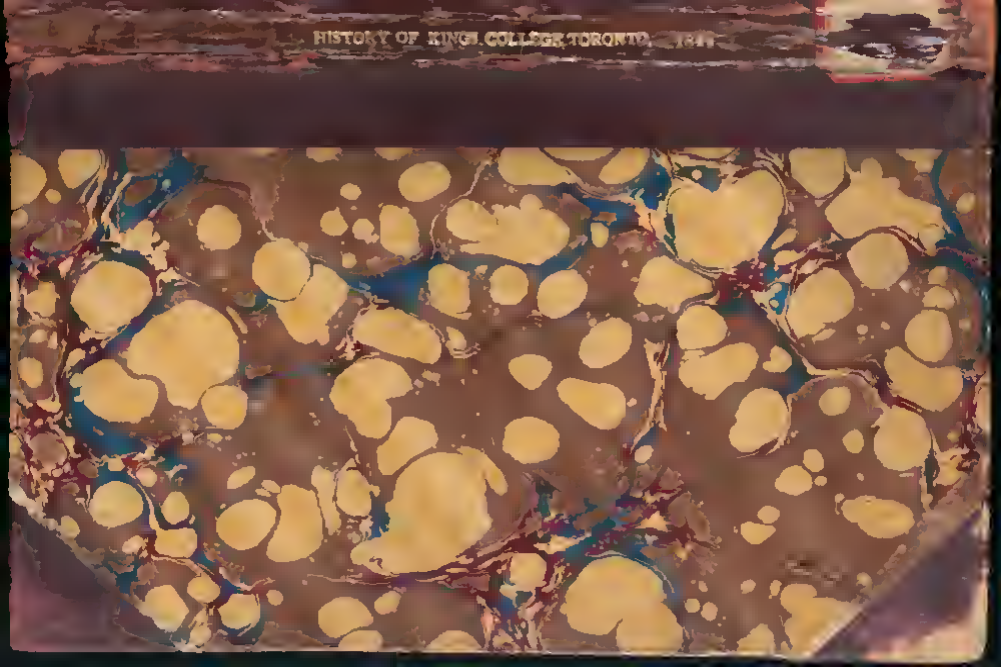
The distinction between the right to private property vested in individuals either personally or as Trustees (or as in the case of the Collegiate Institutions of Lower Canada, which are expressly endowed, not for national, but for Roman Catholic purposes and in that character are guaranteed by the faith of the Empire) and property vested in individuals in the character of public Trustees will always be recognized by the Legislature. Parliament has the power—and if occasionally exercises the right of interference with a thing but on private property it will seldom legislate unless where its existence or purposes are positively injurious—or when it is taken collectively as in case of Parliamentary taxation—while over public and corporate property it exercises a special trusteeship as to its management and direction. And if it be enquired for the Parliament to recall or limit a public trust are the Trustees to be entitled to say that they ought to keep it for their own purposes? Is a public reformation not to be accomplished without being certain Trustees may even resist? Or does it follow that the Parliament are necessarily doing violence to adverse claims and titles, merely because certain Trustees have not come voluntarily forward to surrender a public trust which they have scandalously perverted?

The learned Counsel must have internally smiled at the idea of alarming the fears of the Legislature with an argument which he would not have ventured to use on a far inferior 2nd category. If the obstinate resistance of the corrupt Council of King's College is to impede the progress of Parliamentary legislation what ought to have been the effect of a remonstrance from the ancient Burghs of Sarum and

Gatton on the contrary of English Parliamentary Reform? And if a Parliament could be found base enough to disregard the protest of the Brethren of Laval against all acts passed in their absence as being the acts of a Parliament no longer free, what amount of temerity will resist "the Memorial of John, by Divine Permission, Bishop of Toronto"?—Alas! we fear such is the arbitrary power now vested in and exercised by the Parliaments that the validity of their acts will scarcely admit of a question, even though the whole Bench of Bishops should record their dissent —or even, as in the case of the Act "Uniformity, the very name of the Lords Spiritual should be dropped from every part of the Bill. If the only opponents of a legislative measure are the unfaithful stewards who have betrayed their trust what better argument could there exist for the legal and moral necessity of a change!

The betrayal of trust and subversion of the law by the College Council, despite Mr. Draper's argument even the appearance of plausibility. The conflict is not one between the people of Canada and the vested rights of the College Council—but between a corrupt Council and the vested rights of the people. All those "privileges, rights and franchises," for which Mr Draper has so eloquently contended were vested in the community—the College Council have, in violation of the law, perverted them to private purposes and have had the effrontery to appear at the Bar of the Commons in defence of a contraband traffic with a public endowment. Those who talk of vested rights being invaded or infringed by the University Bill should look at the original grant—its fraudulent appropriation—the deception practised in obtaining the Charter —the long and arduous struggles by the people to reclaim their birthright—the supposed termination of those struggles in the Legislative Act restoring the endowment to its legitimate purposes—and the defeat of those purposes by persons who have neither the capacity nor the integrity—neither the ability nor the inclination to promote any public good. If the system at present in operation were carried on under the sanction of a law, however imperfect—it might to some respects be defensible as a right—but carried on as it is under a flagrant violation of positive law and on the strength of a usurped power it calls for immediate alteration as subversive of the legal constitution of the Establishment and inimical to the interests of the country

HISTORY OF KING'S COLLEGE TORONTO 1843



THE

ORIGIN, HISTORY, AND MANAGEMENT

OF THE

UNIVERSITY OF KING'S COLLEGE,

TORONTO.

"Tros Tyriusve mihi nullo discrimine agetur."

"What we want is Liberty—Absolute Liberty—Just and True Liberty—Equal and Impartial Liberty."—*Locke.*

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TO

THE HONOURABLE ROBERT BALDWIN,

LATE ATTORNEY-GENERAL FOR UPPER CANADA,

WHOSE BILL

INTRODUCED DURING THE LAST SESSION OF PARLIAMENT,

FOR OPENING THE UNIVERSITY OF KING'S COLLEGE

TO

ALL CLASSES AND DENOMINATIONS OF HER MAJESTY'S CANADIAN SUBJECTS,

ENTITLES HIM TO THE GRATITUDE

OF EVERY ENLIGHTENED FRIEND

OF

CIVIL AND RELIGIOUS FREEDOM,

THE FOLLOWING PAPERS

ARE

RESPECTFULLY INSCRIBED.

INTRODUCTION

Much as the public mind has been aroused to the urgent necessity of a thorough University Reform, it is questionable whether the country is yet in possession of all the facts upon which that necessity is based. It must be admitted that the cry of "vested rights," invigorated, as it has been, by the legal hypothesis of an ingenious Counsel, has had some effect in diverting attention from the circumstances which sap that hypothesis in the foundation. But that the High Church party should have had the sole benefit of this cry, is more remarkable than that they should have made every use of it. For, if it can be shown that the endowment of King's College was originally granted for the purposes of general education—that the intention of the grant was to establish a *public* institution—and that the University has been perverted to a private and sectarian purpose, by a party at no period friendly to popular enlightenment,—there must be every reason to complain that the "vested rights" of the people have been grossly infringed—and that the monopoly of the Episcopal Church has been fraudulently acquired, and is unjustly maintained. The question at present before the country is not, whether the exclusive claims of that Church, originally founded on justice, are to be invaded by reason of a public necessity, and whether rights, honestly acquired, are to succumb to purposes of general utility;—but the true question at issue, is simply, whether the University, as a great national institution—endowed with funds for general education—is to be opened to all classes and persuasions of her Majesty's Canadian subjects—or whether it is to be a monopoly, for the exclusive benefit and advantage of the members of the Episcopal Church.

Such is the principle involved in the contest which is now going on—a contest which ought never to have been exerted, and which would have been safely and wisely averted, if just and reasonable claims on the one side had been met in a spirit of enlightened justice and toleration on the other. In urging those claims, the people have no desire to injure the Episcopal Church. Many of them are proud to acknowledge their submission to its doctrine, its discipline, and government, and by some of its warmest adherents, is the cause of justice and toleration nobly maintained. Nor do the other denominations ask any superiority or exclusive enjoyment—all that they desire is, equality of privileges in this seat of learning and science, and in pressing this equitable claim, they only seek to have the University restored to the purposes of its original foundation, and to have it adapted to the character and spirit of the present age, which abjures monopolies and exclusions.

It cannot be denied, that recent events have given energy and direction to these claims,—and that the reckless conduct of the monopolists has invested with an

imperious character the demand to have the monopoly broken up. The fact that the interests of the University have been sacrificed to schemes of personal ambition and private aggrandizement, and that a noble institution munificently endowed, has been plunged into irretrievable difficulties, by a system of gross and glaring mismanagement—has excited a deep and general feeling of indignation throughout the province in which the members of the Episcopal Church have largely participated.

It has now become too obvious, that the people must have some other security for their chartered rights than the parchment skins on which they are recorded—and that Legislative enactments are of little value, if their execution is to be entrusted to individuals, whose object and interest are to undermine the principles upon which they are framed. It would be a mere mockery to offer any measure of delusive liberality, by which the governing power of the University was not completely changed, and by which those who have violated faith with the people, and with the crown, should not be made to suffer the consequences of their darelictions.

Before King's College can exhibit a vigorous and healthy advancement, and produce the fruits of a complete and generous education, it must at once be freed from the system of despicable proselytism, which at present both fetters its energies and degrades the morals of its youth, and relieved of the management of those individuals, who have so grossly perverted the objects of the institution, and who are now clinging with convulsive tenacity to the power which they have ingratiously abused.

There is every reason to believe that an attempt will be made by the High Church party to defeat the principle of the University Bill, by bribing the leading sects into silence. But to any such unprincipled scheme which would sacrifice the permanent interests of the country to the temporary and pecuniary advantage of particular sects, the people of Canada will assuredly offer the most uncompromising opposition. Full, free and unreserved participation in the benefits to be derived from the University, is the BIRTH RIGHT of every individual in this country, to whatever sect he may belong; and if any man shall be found base enough to sell the civil and religious privileges of the Canadian people, which are the property neither of sect nor of party, for a sectarian or personal advantage, his perfidy will be visited with the execrations of the country and of posterity, and with the contempt of the party who may purchase his degradation.

The great feature of the University Bill was its avowed hostility to all sectarian monopoly. Its object was to make the University a general and NATIONAL INSTITUTION;—an Institution in which the youth of all classes and persuasions might freely mingle; and where, by being combined in their amusements as well as in their studies and pursuits, they might be permanently united in the bonds of friendship and good feeling;—an Institution in which might be nurtured and developed those generous feelings and affections which would mitigate the burning animosities that the conflict of opposite interests might afterwards engender, and which would divest future opposition of its acrimony and its bitterness.

It is time that this great subject should be viewed apart from all sectarian interests, and that it should be contemplated exclusively in its important bearing on the destinies of this Province. In a country so divided by religious opinions, and where the influence and intelligence of the different sects are so nearly balanced, it is of the highest importance that its public institutions should be sufficiently comprehensive to permit of, and to encourage free and unreserved intercourse between the classes. And where can such intercourse and communion be so happily and so completely effected as within the walls of a University where all denominations of Christians would mingle and be educated under one general system, and where, by associating together at the most interesting season of life, they might lay the foundations of future intercourse and mutual good-will, so essential to the well-being of all society, and which are by no means incompatible with differences either in religious faith or political opinion? By such an amalgamation of classes in the combined education of the Canadian youth, we might expect to see the asperities of religious and political differences softened down—the lines of division gradually obliterated—prejudices abated and adverse feelings reconciled.

The grasping conduct of the High Church party has indeed perplexed this subject with considerations extrinsic of its own merits, and on none of the important interests of this country has the baneful influence of that party operated to a more injurious degree, than on the progress of general Education and the successful establishment of the University. It is abundantly evident that if King's College be permitted to retain the sectarian and exclusive character which has been falsely imposed on it, and if the other denominations are excluded from a participation in its benefits—whether by their own self-abasement or by the powerful opposition of unscrupulous foes—the various sects will either renew their exertions to obtain the same benefits in other establishments instituted in conformity with their own opinions, or large numbers of the youth of the Province will be driven for their education to foreign Seminaries. But will the country submit to a compromise which will involve the necessity and danger of a separate education for each section of its varied population, which will array them in a hostile attitude one against another, each thinking the other an individual with whom it would be unsafe to associate—the one claiming a superiority to which he is not entitled, the other struggling and resisting under an undeserved inferiority? And has the country generally no interest in seeing that its youth are educated within its own territories, and in taking care that their instruction is not such as may tend to alienate from its institutions those in whose individual genius and integrity it may repose confidence in the hour of difficulty and danger?

Let not the party who would offer such a compromise imagine that the acceptance of their unprincipled bribes by any of the sectarian leaders would set this question finally at rest, for even should the present generation basely barter its rights, posterity will rise to reclaim them, and while a remnant of the endowment is perverted to a sectarian purpose, the struggle for equality will be perseveringly maintained. The purchase of temporary repose would be a transient delusion,

renewed demands would be made upon the endowment—each successive demand with as much justice as the first, and the Institution would only be relieved from assaults when participation in its benefits was no longer an object of desire.

No compromise—no fraudulent settlement, nor base bartering of rights, will terminate the struggle for principle, or diminish the resistance to a sectarian ascendancy. That resistance will not cease, till the portals of the University shall be thrown open, and all classes and denominations shall, in the words of Locke, have "LIBERTY—ABSOLUTE LIBERTY—JUST AND TRUE LIBERTY—EQUAL AND IMPARTIAL LIBERTY."

CHAPTER I.

THE ORIGINAL GRANT.

The first public movement in Upper Canada, towards obtaining a provision for educational purposes, was made in 1797, when the Legislative Council and House of Assembly concurred in a joint Address to King George III., "imploring that his Majesty would be graciously pleased to direct his Government in this Province to appropriate a certain portion of the waste lands of the Crown, as a fund for the establishment and support of a respectable Grammar School, in each District thereof, and also a College, or University, for the instruction of youth in the different branches of liberal knowledge." To this address a favourable answer was transmitted, in a despatch from the Duke of Portland, to the Honourable Peter Russell, then at the head of the Local Government, to which his Grace communicated his Majesty's "most gracious intention *to comply with the wishes of the Legislature* of his Province of Upper Canada, in such manner as shall be judged to be most effectual." With this view, Mr Russell was directed to consult the members of the Executive Council, and the Judges, and Law officers of the Crown, in Upper Canada, and to report to his Majesty's Government, "*in what manner and to what extent*, a portion of the Crown Lands might be appropriated and rendered productive towards the formation of a fund for the above purposes." On the 1st December, 1798, the Executive Council reported to Mr President Russell, that an appropriation of 500,000 acres, or ten townships, after deducting the Crown and Clergy sevenths, would be a sufficient fund for the establishment and maintenance of the royal foundation of four Grammar Schools, and an University, and that the proposed School fund should, when raised, be applied:

1st. For the erection of the necessary buildings.

2nd. For the payment of the salaries of the Masters.

3rd For keeping the buildings in repair, the purchase of books and philosophical apparatus, and other purposes essential to places of education, but in general too costly to be provided by individuals

The Council also reported that the towns of Cornwall, Kingston, Newark, and Sandwich, were, at that time, the most proper places for the sites of the four Schools, and that they considered York as entitled to the University, both as being the Seat of the Executive Government, the Legislature, and the Courts of Justice; and as being by far the most convenient spot in the province for all general purposes—its situation being nearly central, and besides its accessibility by water, the then proposed high road from the one end of the province to the other being necessarily to pass near it, or through it. The Council proposed that two of the Schools—namely those at Kingston and Newark should be commenced first; and that, whenever the appropriated fund should be found sufficient,

the towns of Cornwall and Sandwich should each receive a similar mark of the Royal munificence. In this manner they conceived that the lands thus appropriated would not only be amply sufficient for the establishment and support of the four Schools, but would be nearly, if not quite adequate to the erection and endowment of the University, whenever the advancement of the Province should call for such an Institution, and they recommended, that the provision for the establishment and maintenance of the University should, at least, be equal to that of the four Schools taken together.

The precise details of the action which was taken upon this Report cannot now be ascertained, but it will be observed that the original instructions are sufficiently indicative of the intention of the Home Government to place the educational seminaries and their endowments under the control of the Local Legislature, at whose suggestion the appropriation was made.

In consequence of the reckless profusion of grants which placed the wild lands of the Province in the nominal possession of a few proprietors, who could neither use them themselves nor render them subservient to the promotion of any public purpose, the sale of lands and the advancement of the country were very slow, and consequently for more than twenty years after the original appropriation, the School Lands remained totally unproductive. In 1808, the Legislature, to show that something more than Grammar Schools was required, did all their limited means then permitted, in providing a small apparatus for the instruction of youth in physical science, and in 1807, a temporary act was passed by the Provincial Legislature, and made permanent in 1808, providing for the establishment of a School, answering to a Grammar School, in each District. The School Lands, however, afforded no aid to the District Schools, which were irrespective of the general endowment, and for the maintenance of which the Legislature was compelled to provide otherwise. In 1818, a law was passed for the further improvement and extension of Common Schools. This act was limited to four years continuance, and when renewed in 1820, several amendments were introduced which detracted very much from its value, particularly one which greatly reduced the appropriation.

The reduction referred to was the consequence of the arbitrary and exclusive views which had for sometime manifested themselves in the proceedings of the Executive Government. The High Church party had long monopolized all office and influence, and it is rarely that that party have given a willing support to any general system of Education. Least of all were they likely to afford any countenance to a scheme by which its blessings would have been equally diffused among all classes and denominations. They foresaw that if so valuable an endowment as the School Lands might eventually prove, were left to the disposal of the Legislature, the country would in all probability receive a popular system of Education, unfettered by party or sectarian restrictions, and that a favourable opportunity would thus be lost, of placing the ascendancy of the Episcopal Church on a solid foundation. In 1819, the growing importance of the School Lands attracted the attention of the Government, and the attempt was then made,

unfortunately too successful, to defeat the object of the grant by fraudulently diverting it from its original purposes. Without the consent, and indeed without the knowledge of the Legislature, by whom the School Lands had been held in trust, certain members of the Executive Government, among whom was Mr. Strachan (then a leading member of the administration), secretly planned and effected an arrangement by which the people generally might be deprived of all benefit from the endowment, by which the Legislature might be divested of its control, and by which the erection of the Grammar Schools might be postponed to an indefinite period in favour of an Episcopal University, established on such exclusive principles as would benefit only the party to which the members of the Government in those times invariably belonged. A fraud more disastrous to the people has not been perpetrated in the worst periods of Provincial corruption, but the secrecy with which it was devised and executed, effectually protected it from the opposition of the Legislature. The scheme was not once mooted in Parliament, and the robbery was consummated without a single voice being publicly raised in defence of the people's rights.

A Committee of the Executive Council, on 7th January, 1819, reported that no trace of any answer to the Report of the Council of 1st December, 1798, could be found in the Council Office;—that as they were of opinion with the Attorney General (Mr. Robinson) that the appropriation of land was not sufficiently sanctioned to authorise a grant in other portions than limited by his Majesty's Commission, they thought it proper to recommend that his Excellency Sir P. Maitland should call the attention of his Majesty's Government to a formal sanction to "sell, lease, grant, and dispose of the 500,000 acres of land for the purpose of establishing a University, as provision for District Schools was not by them thought necessary out of this fund, their establishment and maintenance having been already provided for by the Legislature, and that in order to construct the necessary buildings, the sum of £10,000 would be required, with an endowment of £4000 per annum for the payment of salaries; and that a Commission should permanently attend, with large powers to sell and lease the land and manage its revenues, *under the direction of the Executive Government.*" It was also considered, "that it would conduce much to the importance and utility of the projected University, *if its Constitution should be by a Royal Charter.*"

If the necessity which existed for a University, at the time when the population of Upper Canada did not exceed 145,000, and when private enterprise and public improvement were checked by every species of jobbing and extortion on the part of the Government, is it to be estimated by the criterion which the parties who converted the alienation of the School Lands must admit to be a reasonable one—namely, the success of its opening after 24 years of subsequent commercial and agricultural improvement, after the country has quadrupled its population, when the increased value of the lands has enabled the University to enlarge its annual expenditure from £4000, originally proposed by the Executive Council, to nearly £15,000, when it has gone into operation with means munificent beyond all precedent in the early history of any literary institution in America, and indeed

in the early history of any country, with a library, philosophical apparatus, and an array of professors and officers, unsurpassed by any other educational seminary on this continent, and when, after being all along under the fostering care and direction of the very individuals who projected its establishment, it has not been able to matriculate in its first and second terms more than 32 students,—it will appear sufficiently obvious that the Executive Government had other objects in view in effecting the alienation than the general diffusion of Education among the people. If, however, the establishment of a University was then deemed necessary, in consequence of the increased number of young men who were turning their attention to the learned professions, the Government was bound to have sought the means from other sources than the School Lands, of which the Legislature were undoubtedly the trustees, and even if the claim of the Executive Council to the control of the endowment had been well founded, its diversion from the original object was a direct violation of trust, and of the stipulations and agreements which had been expressly made when the appropriation was first proposed. The Report of the Council in 1788 suggested the necessity of establishing the Schools before the University should be proceeded with. It expressly stipulated that in the first place the two at Kingston and Newark should be placed on a permanent and substantial foundation, and that "whenever the circumstances of the Province should call for the erection of two other Schools, and also that the appropriation fund should be sufficient not only to bear the expense of the erection and endowment of those two Schools, but also to leave a residue sufficient for the establishment and future maintenance of a Seminary of a larger and more comprehensive nature, the same steps should be pursued with respect to such two Schools as have been already recommended with respect to the two Schools at Kingston and Newark." But what steps had been taken for the erection of the Schools here proposed? It is true that in 1807 the Legislature, finding it absolutely necessary to make some available provision for the education of the people, had established the District Grammar Schools, but the Executive Government of 1819 were perfectly aware, and none knew better than Mr. Strachan, their acknowledged leader, that however liberal the provision might have been when the population did not exceed 50,000, it was quite inadequate to meet the growing necessities of the Province from its increased commercial wealth and population. But if the Legislature, while the School Lands remained unproductive, availed itself of the constitutional means for the diffusion of education by direct taxation, it is difficult to see that in consequence of this step the people forfeited or surrendered their right to the endowment when the lands became available. It was obvious, however, that a popular system of education did not suit the views of the Executive Council, by whom every attempt to introduce it into the Province had been steadily resisted; and the establishment of the University was anxiously regarded as an important feature in the great scheme then contemplated by the High Church party to Episcopalize the Province, and to incorporate the Church of England with the Government, as an appendage to the State.

The acquisition of the School Lands offered prospective benefits of too valuable

a description to be left long unimproved by the High Church party. In consequence of a great portion of the endowment having been carelessly selected from indifferent land in remote parts of the Province, it had remained nearly unsaleable. It was therefore proposed by the Council, that in order immediately to place the University on a substantial foundation, the School Lands now appropriated to the University should be exchanged for an equal portion of the Crown Reserves, which were looked upon as immediately marketable. The character of the proposed Institution was at the same time resolved on, and the exclusive Universities of England furnished appropriate models for the erection of this bulwark of Episcopacy. The only danger to be apprehended was the exposure of this nefarious scheme at a time when popular opinion might operate against its accomplishment, but at once to silence popular discontent and to protect themselves from future assaults, the High Church party formed the design of entrenching their position by a Royal Charter, which would throw upon the Crown the odium of this illiberal institution. It was, however, easy to foresee that a Charter adapted to their design would not be obtained without misrepresentations of so gross a character, that ordinary ingenuity and boldness might fail in the attempt, and as His Excellency Sir Peregrine Maitland had refused his consent to the exchange of the School Lands for the Crown Reserves, without special instructions from the Home Government, the high and important trust was reposed in Dr Strachan of proceeding to England and soliciting in person from His Majesty's Ministers the private transfer of the people's rights—too sacred to be alienable even by themselves—and which, notwithstanding the courage with which he is amply endowed, he would have shrunk from proposing to the people's representatives.

The result of Dr Strachan's mission to England is sufficiently known; but his proceedings while there, form too curious a chapter in the annals of the University to overlooked in this place.

CHAPTER II.

THE ORIGINAL CHARTER.

When application for the Charter of King's College was made, Lord Bathurst—a bigoted High Churchman, and odious for his exclusive principles—held the seals of the Colonial Office. In him the High Church party of Canada reposed implicit confidence, and the most revolting proceedings were taken in order that a plausible case might be laid before the Secretary and his colleagues. The Dissenters of all denominations were calumniated and insulted in every shape that the rancorous hostility of the Press, and alas! the servility of the Pulpit, could devise. They were stigmatized as Republican in their principles, and

disloyal in their affections—they were insultingly taunted with ignorance and idleness, and were even made the objects of systematic and direct persecution on the part of the magistrates It was thought, that if his Majesty's Ministers could be impressed with the idea that Dissenters generally were disaffected, measures would be adopted in Canada similar to those which had formerly driven the Puritans from the British shores, and that the Episcopal Church would be secured in those privileges and immunities which were enjoyed by the Establishment in England Not the least notable of the slanderous effusions of High Church intolerance was a Sermon preached by Dr Strachan, then Archdeacon of York, immediately previous to his departure for England, on the death of Dr Mountain, the first Bishop of Quebec. On an occasion of such solemnity, it might have been expected that the shafts of calumny and misrepresentation would have been sparingly used, and that over the ashes of the dead, sectarian hostility would have yielded to sadder and holier feelings For the benefit of those who are curious in High Church eloquence, we subjoin a specimen of the pious denunciations with which this Christian Archdeacon appeased the manes of his departed brother of Quebec

"Even when churches are erected, the minister's influence is frequently broken or injured by numbers of uneducated itinerant preachers, who, leaving their steady employment, betake themselves to preach the Gospel from idleness, or a zeal without knowledge, by which they are induced without any preparation, to teach what they do not know, and which, from their pride, they disdain to learn

"When it is considered that the religious teachers of the other denominations of Christians—a very few respectable ministers of the Church of Scotland excepted—come almost universally from the Republican States of America, where they gather their knowledge and form their sentiments, it is quite evident, that if the Imperial Government does not immediately step forward with efficient help, the mass of the population will be nurtured and instructed in hostility to our Parent Church, nor will it be long till they imbibe opinions any thing but favourable to the political institutions of England

"It is only through the Church and its Institutions, that a truly English character and feeling can be given to, and preserved in any foreign possession."

Previous to Dr Strachan's arrival in England, the Colonial Secretary had been carefully prepared for the extraordinary demand which was about to be made In a petition to his Majesty and the British Parliament, which he transmitted through Lord Bathurst, the Rector of York announced the following astounding facts:

"That the population, now greatly increased, and embracing in its bosom many denominations of Christians, still retains its prominent feature of being attached to the Church of England, the members of which, together with the Dutch and German Lutherans, who join them in communion, comprising by far the most numerous description of Christians in Upper Canada

"That the very little progress made by the other denominations, compared to that of the Church of England, and the very recent establishment of their sundry congregations, has generally created in the minds of the people a veneration for it, as the established form of worship, a *light in which it has always been presented* [by the Doctor and his friends], *to the inhabitants of this Province,*

from their earliest years. Such is now the state of the Province, and the desire for religious instruction according to the forms and discipline of the Church of England, that many intelligent persons well acquainted with the Colony are of opinion, that along the greater part of the main road passing from one extremity of the Province to the other, a distance of nearly 600 miles, a Church might be erected, and a Clergyman profitably placed at the distance of every ten miles, and this exclusive of the parishes already established.

"That when new missions are planted in any quarter, not only those persons readily join who are not particularly attached to any denomination, but even Presbyterians and Congregationalists attend public worship with their families, so that on many occasions the whole neighbourhood becomes united to the Church, and not only are their dead buried according to its rites, but likewise the bodies of their friends and relations are frequently collected from private places of interment, and again consigned to their graves in the public burial ground, with the solemn offices of the Church. Moreover their children are baptized and educated in the bosom of the Church, and the greater number at length confirmed by the Bishop, and a congregation is thus in a few years formed, strongly attached to our venerable Establishment, and even in those remote parts of the country where Methodist itinerents are the most active, so soon as the population is sufficiently compact to admit and require the ministrations of a regular Clergyman, *he finds his congregation increasing by the gradual accession of their more respectable adherents.*

"*That the Church is increasing so rapidly as to offer great encouragement to respectable families to bring up their children to the sacred profession: accordingly a list of more than thirty students now lies before your petitioners, and many more young men than can possibly be provided for, are presenting themselves* to the Lord Bishop as candidates for Holy Orders."

"No objection is made by parents against teaching their children the Church Catechism and the service of the Church from the Book of Common Prayer; on the contrary, all denominations are desirous of obtaining both, for their own and their families' edification. The whole neighbourhood bring their children to the resident Clergyman to be baptised, and submit in great numbers, both old and young, to the rite of confirmation, send their youth to the Sunday Schools, and allow them, after their tasks are heard, to walk in procession to the Church. In fine, there evidently appears the fairest prospect that the Church of England, from the favourable disposition that now exists towards it, will be able to collect within its bosom the bulk of the inhabitants, *should no prospect of supporting their Clergy* be held out to the various Protestant denominations."

"That, with the exception of the Methodists, who have been deserted by their brethren in England and left for instruction to itinerants from the United States, there appears no prominent denomination of Protestants in this Province, but the Established Church, capable of exciting public attention.

"There is no appearance in any other part of the Province of a third congregation in communion with the Kirk of Scotland being formed, nor is this denomination popular, for when the people leave the Established Church, they claim the privilege of electing their minister from whatever quarter they please, which the Kirk denies them. Indeed the Presbyterian form of discipline and Church government is inconsistent with extension, as it cannot be complete out of Scotland, nor can its clergy be placed in a distant colony under vigilant superintendence."

Immediately on his arrival in England in 1826, Dr Strachan placed himself in communication with the leaders of the High Church party, from whom he solicited contributions in aid of the funds of the University, and their influence

and assistance in obtaining an exclusive Charter In England he openly avowed the design which he dared not to have breathed in Canada. In a pamphlet, which he published in London, entitled, "An Appeal to the Friends of Religion in behalf of the University of Upper Canada," he distinctly stated that it would be essentially a Missionary College "for the education of Missionaries of the Church of England"—and, as an inducement to the members of that Church to contribute towards the funds of the College, he maintained, that the effect of establishing this University would be ultimately to make the greater portion of the population of the Province members of the Church of England.

To the various parties with whom the Reverend Doctor communicated privately, he urged every variety of argument, and, without much regard to consistency, he adduced every variety of fact. From the Society for the Propagation of the Gospel in Foreign Parts he claimed assistance on the ground of his "*having been instrumental in establishing a scheme in Canada, by which the education of the whole population is virtually under the direction of the Church*" He informed them that there were in this Province "300,000 British Protestants" (meaning of course members of the Episcopal Church), and that the only antagonising influence with which they had to contend was the existence in Lower Canada of 400 000 Catholics To the Church Missionary Society he repeated much of this invaluable information and by way of shewing that the establishment of a University in Upper Canada was correlative to their zeal in propagating Christianity among the heathen, he enlarged upon his own tender and paternal feelings towards the Indians, and actually acceded to a proposal for the Establishment of Scholarships, with suitable professors, for the exclusive benefit of the Tribes

But the most elaborate information in regard to the Ecclesiastical Statistics of the Province, was contained in a Letter and Ecclesiastical Chart, which he transmitted to the Hon R J Wilmot Horton, then Under Secretary of State, upon which communication he grounded the exclusive claims of the members of the Church of England to the benefits of the Clergy Reserves and the University In the Chart he stated that 'in connection with the Established Church there were 29 clergymen, 58 places where there was regular or occasional service, exclusive of frequent journies taken by the missionaries to the new settlements in their neighbourhoods.—45 churches, and 31 regular parishes." That there were 7 ministers of the Independent or Presbyterian order 'assuming the appellation of the Presbytery of the Canadas, but having no connection with the Kirk of Scotland,'—that there were two ministers in connection with the Kirk—and "as the Methodists have no settled clergymen it has been found difficult to ascertain the number of itinerants employed, but it is presumed to be considerable, perhaps from 20 to 30 in the whole Province The other denominations have very few teachers, and those seemingly very ignorant One of the two remaining clergymen in communion with the Church of Scotland, has applied to be admitted into the Established Church '

Dr Strachan's Letter to Mr Horton, enclosing the Chart, furnishes so much

important evidence of the gross misrepresentations upon which the Royal Charter was obtained, that it is proper to quote it at length:

"Sir,—I take the liberty of enclosing for the information of Lord Goderich, an Ecclesiastical Chart of the Province of Upper Canada, which I believe to be correct, for the present year 1827, and from which it appears that the Church of England has made considerable progress, and is rapidly increasing.

"The people are coming forward, in all directions, offering to assist in building churches, and soliciting with the greatest anxiety the establishment of a settled ministry. Indeed the prospect of obtaining a respectable clergyman, unites neighbourhoods together; and when one is sent of a mild and conciliatory disposition, he is sure in any settlement in which he may be placed, to form the respectable part of the inhabitants into an increasing congregation. There are in the Province 150 Townships, containing from 40 to 500 families, in each of which a clergyman may be most usefully employed; and double this number will be required in less than twelve years.

"When contrasted with other denominations, the Church of England need not be ashamed of the progress she has made. Till 1818, there was only one clergyman in Upper Canada a member of the Church of Scotland. This gentleman brought up his two sons in the Church of England, of which they are now parish priests. After his death, his congregation was split in three divisions, which with another collected at Kingston in 1822, count four congregations in all, which are in communion with the Kirk of Scotland. Two are at present vacant; and of the two Scotch clergymen now in the Province, one has applied for Holy Orders in the Church of England.

"The teachers of the different denominations, with the exception of the two ministers of the Church of Scotland, four Congregationalists, and a respectable English Missionary who presides over a Wesleyan Methodist meeting at Kingston, *are for the most part from the United States, where they gather their knowledge and form their sentiments*. Indeed the Methodist teachers are subject to the order of the Conference of the United States of America; and it is manifest that the Colonial Government neither has nor can have any other control over them, or *prevent them from gradually rendering a large portion of the population, by their influence and instructions, hostile to our institutions both civil and religious, than by increasing the number of the Established Clergy*.

"Two or three hundred clergymen, living in Upper Canada, in the midst of their congregations, and receiving the greater portion of their increase from funds deposited in this country (England), must attach still more intimately the population of the Colony to the Parent State. Their influence would gradually spread; they would infuse into the inhabitants a tone and feeling entirely English, and *acquiring by degrees the direction of education—which the Clergy of England have always possessed*, the very first feelings, sentiments and opinions of the youth must become British."

Deceived by such representations, and unsuspicious of the veracity of the highest Episcopal Ecclesiastic of Upper Canada, the Colonial Secretary, in an evil hour, affixed his signature and the Royal Seal to a Charter in the terms required, and the Archdeacon of York was rewarded with a sum of £1300 for his invaluable and meritorious exertions on behalf of the Episcopal Church.

When a Royal Charter was first openly spoken of in the country, it was generally understood that, as it was then impracticable to have several appropriate Colleges for the different sects, the University would be adapted to the existing state of the Province, and to the wishes and wants of its mixed population.

The consternation and disappointment then were proportionably great when the provisions of the Charter became known, and it was ascertained that the University had been converted into a purely Episcopal College. In his Speech at opening the Parliament, on 15th February, 1828, his Excellency Sir P. Maitland said:—"I have much pleasure in announcing to you, that his Majesty has very graciously provided for the establishment of an University in this Province, and has bestowed means which will answer the early accomplishment of an object, long regarded by me as among those most to be desired for the welfare of the Colony." But to this part of the Address the House of Assembly replied with becoming caution and reserve in the following words:

"We shall be highly gratified to find that His Majesty has very graciously provided for the establishment and endowment of an University in this Province, if the principles upon which it has been founded shall, upon enquiry, prove to be conducive to the advancement of true learning and piety, and friendly to the civil and religious liberty of the people."

In the meantime, rumours of the exclusive provisions of the charter having transpired, the indignation of the Province was effectually roused. It was willingly believed that His Majesty's Ministers had been deceived by gross misrepresentation, and that if they had been truly informed of the condition of the Province, and the religious views and feelings of the people, the Royal sanction would never have been given to a charter which denied their civil and religious equality. Petitions from all parts of the country were poured into the two Houses of Parliament, representing that the principles of the Charter were inconsistent with the unimpaired preservation and maintenance of the civil and religious rights and privileges of the people. It was thought that a University, adapted to the character and circumstances of the people, would be the means of inestimable benefits to the Province; but, to be of real service, the principles upon which it was established should have been in unison with the general sentiments of the country—that it should not be a school of politics or sectarian views—and that it should have about it no appearance of a spirit of partiality or exclusion. That its portals should be thrown open to all, and upon none who entered should any influence be exerted to attach them to a particular creed or Church. That it should be a source of intellectual and moral light and animation, from which the glorious irradiations of literature and science might descend upon all with equal lustre and power. But if King's College under the Charter, formed as it was for the exclusive advantage of a single Church, and that a minor one, should be suffered to go into operation, without material amendments in its provisions, and without another College being established for the general benefit of other religious denominations, the inevitable consequence would be, that the native youth of the Province, receiving a public education, would, with the exception of Protestant Episcopalians, be generally sent out of the Province, to obtain it at Colleges where they could be taught classical learning, and the arts and sciences, without prejudice to their religious principles and feelings. Parents who were conscientious in their profession of religion would not willingly put their sons, in the unguarded season

of youth, under a process of religious proselytism to a different faith; and the people felt that to be thus excluded from the offices and honours of the only College in the Province, and subjected to literary as well as ecclesiastical domination, for no other crime than that of adhering to the dictates of their conscience, was an unmerited degradation. It was at once perceived that the grand policy of the High Church party to Episcopalize the Province had come into operation, and that this was one great step towards the establishment of a minor Church, with exclusive privileges and resources, over a dissenting majority of the population—declaring her form of religion to be the established religion of the Province, and her ministers the only Protestant Clergy, granting them royal monopolies and immunities, and a control of the education of youth by means of the University. It was felt that such a system would, as it had been in Ireland, be a perpetual source of religious and political animosity—that it would give one Church a permanent separate interest adverse to the other more numerous Churches—and that all these other Churches, irritated by a baneful monopoly and domination, would be induced to make common cause in their own defence in opposition to the dominant Church.

It was therefore thought that his Majesty's Government could never have contemplated the limitation of its beneficence, by establishing the University upon such terms as must either preclude from its benefits the greater part of those for whom it was originally intended, or subject them at an age ill qualified to guard against such attacks to the silent but powerful influence of a prevailing and regular system of proselytism; and that they could not have been aware of the insurmountable objections to which, from the circumstances of the country and the sentiments of the people, some of the provisions of the Charter were liable.

Petitions were at the same time presented to Parliament by various denominations of Christians, praying an inquiry into the truth of the charges and statements made by the Archdeacon of York, relative to the character and instructions of the respective clergy whom he had stigmatized as mixing up sedition with the Word of God. These petitions, with the others, praying for inquiry into the principle on which the University was established, were referred to a Select Committee of the House of Assembly, with power to send for persons and papers, and to report thereon. This Committee performed their duties with the strictest impartiality. Before proceeding to the examination of the Letter and Chart the Chairman transmitted to Dr Strachan a copy of one of the petitions referred to them, and informed him that they would be happy to receive from him any information upon the matter submitted to their consideration. To this communication Dr Strachan returned an answer, declining to avail himself of the Committee's offer to receive explanations, but adhering to the statements which he had made in England. "For my opinions," he wrote, "I am responsible to no one. I had no desire to conceal them, and they were therefore publicly and openly expressed. No consideration could have prevailed upon me to deny or mis-state them; but in applying them, every candid mind will feel that the general expressions used admit the existence of exceptions. I desire it only to be borne in mind, that *they*

were given from memory," a circumstance which Dr Strachan took immense care to conceal from Mr. Horton. The Committee framed a list of fourteen questions, and examined in all fifty-two witnesses. Among the witnesses were all the Members of the House of Assembly, whose testimony they could obtain; some Members of the Honourable the Legislative Council of long residence, high standing, and large possessions in the Province; various Clergymen of different denominations in York and its vicinity, and a few other individuals of high respectability.

The questions put by the Committee, related, among other things, to the birth place and education of the ministers of the various denominations; the tendency of the instruction and influence of the Clergymen throughout the Province; the asserted increase of the Episcopal Church; and the tendency of the population toward it, the wishes of the inhabitants of Upper Canada in regard to the establishment of one or more Churches or Denominations in the Province, with peculiar rights, privileges or endowments; the interference in politics by the Clergymen of the various denominations, the proportion of the members of the Episcopal Church to the whole population of the Province, the opinions of the witnesses as to which was the most numerous denomination of Christians in the Province, the asserted ignorance of the teachers of the various Christian Denominations, and the accuracy of Dr. Strachan's Ecclesiastical Chart of the Province.

The interrogatories elicited a mass of curious and interesting information as to the early Ecclesiastical history of Upper Canada, and in every important particular Dr Strachan's statements were proved to be false by the most irrefragable testimony.

The assertion in Dr Strachan's letter that "the people are coming forward, in all directions offering to assist in building Churches, and soliciting, with the greatest anxiety, the establishment of a settled Minister," and that "the tendency of the population is toward the Church of England, and nothing but the want of moderate support prevents her from spreading over the whole Province," were completely overthrown by the evidence. It was proved, that although the Episcopal Church had always enjoyed peculiar advantages in Canada, although it had been the religion of those high in office, and had been supported by their influence, and countenanced more than any other Church, by the favor of the Executive Government, that although its clergymen had possessed the exclusive right of marrying persons of all denominations, and that although the clergymen of the Episcopal Church had also been liberally supported, and their Churches, partly or wholly erected and maintained from the funds of a Society in England, still the number of members of that Church had not increased in the same proportion as that of several other denominations, and the opinion of the witnesses was decidedly expressed that the tendency of the population was *not toward that Church*. On the other hand, the highest testimony was offered to the disinterested and indefatigable exertions of the Methodist, Presbyterian, and other clergymen who had been calumniated by Dr. Strachan's unfounded

insinuations.—Their influence and instruction, far from having (as was represented in the letter) a tendency hostile to the religious and political institutions of the Province, had been conducive in the highest degree, to the reformation of their hearers from licentiousness, and the diffusion of correct morals, the foundation of all sound loyalty and social order. There was no reason to believe that, as religious bodies, they had failed to inculcate, by precept and example, as a Christian duty, an attachment to the Sovereign, and a cheerful and conscientious obedience to the Laws of the country.

Compared with the whole population, the members of the Church of England were found to constitute an extremely small proportion. On this subject the Committee used every exertion to inform themselves with accuracy. Besides obtaining answers from the witnesses to very minute questions, a Committee was appointed to hold its meetings at York, called the Central Committee of Upper Canada, and was directed to correspond with the other parts of the Province, to suggest the appointment of District Committees, and to request that they would carefully collect and transmit to the Central Committee at York, accurate information respecting the number of persons belonging to the religious denominations in their neighbourhood. In consequence of these instructions, communications were received, from the various parts of the Province, containing correct and full information upon this subject, obtained from personal knowledge or inquiry, and authenticated by the signatures of respectable inhabitants. A Chart was framed from the materials thus obtained, and presented, in the opinion of the witnesses who spoke to it, a very complete and fair view of the number of ministers and of the different religious denominations in the Province. The information conveyed by this Chart so completely and satisfactorily contradicts and falsifies Dr. Strachan's statements, and bears so materially on the question, whether a Charter granted on false representations and calumnious insinuations, should not be set aside and cancelled, that we think it right to subjoin abstracts of the Charts framed by Dr. Strachan, and by the Committee of the House of Assembly respectively.

ABSTRACT OF DR. STRACHAN'S ECCLESIASTICAL CHART,

FOR THE YEAR 1827.

DENOMINATIONS.	*Clergymen.*	*Places of Worship.*	*Churches built or building.*
Episcopalians,	39, and 1 under consideration	58 places where regular or occasional service	45, ten of them building.
Kirk of Scotland,	2, two others vacant	4	
Independents,	6	6	
Methodists,*	From 20 to 30		

* "As the Methodists have no settled Clergymen, it has been found difficult to ascertain the number of itinerants employed; but it is presumed to be considerable—perhaps from twenty to thirty in the whole Province. The other denominations have very few teachers and these seemingly very ignorant. One of the two remaining Clergymen in communion with the Church of Scotland, has applied to be admitted into the Established Church."—*Dr. Strachan's Note.*

ABSTRACT OF ECCLESIASTICAL CHART PREPARED BY COMMITTEE OF THE HOUSE OF ASSEMBLY

REPORTED MARCH 8, 1828.

DENOMINATION.	Number of Preachers.	No. born in His Majesty's dominions.	No. born in Foreign countries.	No. birth place unknown.	No. educated in His Majesty's dominions.	No. educated in Foreign countries.	No. educated unknown.	No. naturalized.	No. not naturalized.	No of Members or regular Communicants.	No of Churches or Chapels	No. of places of regular service.	No. of places of occasional service.	No. of regular hearers.
Methodists, - - - -	117	80	37	0	89	25	0	29	6	9009	66	623	130	30,911
Baptists, - - - -	45	26	4	15	26	1	16	4	0	1435	3	6	No return	5740
Episcopalians, - - -	31	11	0	20	10	1	20	0	0	No return	38	31	30	No return
Presbyterians, - - -	16	10	3	3	11	3	0	1	0	648	22	No return	No return	No return
Kirk of Scotland, - -	6	4	0	0	4	0	0	0	0	No return	No return	No return	No return	No return
Menonists and Tunkers,	20	6	20	0	0	20	0	13	3	1164	5	No return	No return	2368
Wesleyan Methodists,	1	1	0	0	1	0	0	0	0	50	1	1	No return	100

NOTE.—The Roman Catholics are not given in the Chart, but it is well known that they were equal in number to any other denomination in the Province. There was also a considerable number of Lutherans and Quakers, of whom no notice seems to have been taken by the Committee.

No return seems to have been obtained from the Episcopalians of the number of regular hearers. It would be impossible to hazard a conjecture as to their amount. In a "Report of the Society for the Propagation of the Gospel in Foreign Parts, for the year 1821," it is stated that "the greatest number of Church of England communicants at any one time during that year was 367."

That the grand policy of the High Church party was to Episcopalize the Province by means of the University was now sufficiently obvious from the undisguised sentiments of their acknowledged leader, who quickly saw that such was the natural tendency and effect of putting into the exclusive hands of the Episcopal Church, the only seminary of learning in the country where a liberal education could be obtained. It was obvious, however, that there was in the minds of the people generally, a strong and settled aversion to any thing like an Established Church—the very attempt to invest the Episcopal Church with peculiar rights and privileges, from which the other sects were excluded, excited the greatest alarm and jealousy throughout the country. It was felt that it would be impolitic, as well as unjust, to exalt this Church, which embraced so small a minority of the inhabitants, by exclusive rights above all others of his Majesty's subjects, who were equally conscientious and deserving, and that the jealousy and alarm of the people were sufficiently well founded was but too obvious from the exclusive provisions of the Charter itself, a copy of which was sent down to the House of Assembly by the Lieutenant-Governor.

It appeared that the following were among its provisions: The Bishop of the Diocese was to be visitor, and as such might disapprove of the bye-laws made for the College by the Council, which thereby became void, unless His Majesty in Privy Council afterwards reversed this order, the Governor, Lieutenant Governor, or person administering the Government, was to be Chancellor, the President was to be a Clergyman in holy orders of the Church of England: the Honourable and Venerable Doctor Strachan, Archdeacon of York, was to be the first President—the Corporation was to consist of the Chancellor, President, and Scholars of King's College: and was authorized to take and hold real Estate, not exceeding the yearly value of £15,000; the College Council was to consist of the Chancellor, President, and seven other persons, who were to be Members of the Church of England, and to sign the thirty-nine Articles of that Church, previous to their admission into the Council: the Council, under certain restrictions, were to make bye laws for the College, one of these restrictions was, that no religious test or qualification should be required of, or appointed for any persons admitted or matriculated as Scholars in the College, except that those admitted to the degree of Doctor in Divinity should take the same declarations and subscriptions, and take the same oaths as are required of persons admitted to any degree of Divinity in the University of Oxford. The Chancellor, President, and Professors of the College, and all persons admitted in the College to the degree of Master of Arts, or to any degree in Divinity, Law, or Medicine, who, from the time of such admission should pay the annual sum of 20s. sterling, towards the support of the College, were to be members of the Convocation.

Such were the exclusive constitution and government imposed upon an Institution professedly designed for the promotion of science and learning among the people of Canada! That a Charter, so violently repugnant to the feelings and convictions of the community, should have been received with joy by the

High Church party, was of course to have been expected: but that the British Government should, in a matter of this kind, have shown any disposition to plant institutions in its transatlantic dependencies in accordance neither with the spirit of the age, nor with the principles which had for some time governed its domestic policy, can only be attributed to the fact—of which abundant proof has been given—that it was grossly deceived and imposed upon. And even were there not in existence ample documentary evidence to support the charge of deception, how otherwise is it possible to reconcile the policy of that Government, which had promoted intolerance at home, and was about to wage open war with all monopolies and exclusions, civil, religious, and commercial; which had recently relieved the Dissenters of the odious Test and Corporation Acts; which was diffusing the blessings of a *national* education among the people of Ireland, without distinction of creed; and was about to send joy and gladness into the bosoms of the Roman Catholics, with the acceptable boon of Catholic Emancipation,—with the establishment, in a country buoyant with free principles, and in a vast community composed of Christians of different faiths, and worshipping under different forms, of a University unparalleled for its exclusive character and odious distinctions by any educational Seminary on the continent of Europe? Oxford and Cambridge indeed formed exceptions to the universal abandonment of tests—and even there, religious restrictions were only defended and maintained on account of the intimate association and practical connection of these time-hallowed Institutions with the National Church. Yet in Oxford and Cambridge themselves religious distinctions were comparatively new, and had been imposed at a period—by no means the brightest in their annals,—when genuine freedom was almost unknown, and when speaking of liberty, or expressing an opinion favouring of schism was sufficient to bring a man within the fangs of the Court of High Commission

But when the Charter of King's College was obtained, such intolerant principles had been repudiated by every State in Europe, and exclusive distinctions on account of religion had been abandoned in all the great National Universities. In France, in Germany, and in Austria, persons of all religions were freely admitted into the Professors' chairs. In the University of Bologna, where the Papal authority was paramount, there was no exclusion on the ground of religion. In Pisa, no restrictions were recognized, and, in point of fact, Mohammedans, Jews, Greeks and Turks were indiscriminately admitted. Indeed it frequently occurred that some of the Professors' Chairs were filled by English Protestants, and one circumstance sufficiently attests the total absence of that fanatical intolerance which seemed to have been put to flight in Europe, to find a refuge in the Academies of Canada. When a Mohammedan takes a degree at Pisa, the Chancellor, who is generally a Vicar-general, or Archbishop, leaves the chair, and the Vice Chancellor, whose religious scruples are not necessarily under the influence of Church preferment—presides at the ceremony. At Padua, the chairs have been frequently filled by foreigners—by members of the Church of England—by Presbyterians, and by Calvinists. Thus, in the Roman, Venetian,

and Austrian States, there was an absence of jealousy and religious exclusions at the Roman Catholic Universities. Nor was there any disposition to interfere with rational consideration and the rights of private judgment exhibited in the Universities in any part of Protestant Europe. In Bonn, Baden, Breslau, and Copenhagen, the Universities were open to all. In Leyden, the Professors might be Roman Catholics; and in Copenhagen, one of the chairs was, at the very time the Charter of King's College was obtained, filled by a Jew. In the Scottish Universities, the Test Statute originated in the zeal of the anti-patronage Presbyterians after the Revolution, and was enacted by the Scotch Parliament for the sole purpose of excluding Episcopalians from the Colleges, at a time when Episcopalians and members of the Society of Friends were conceived to be alike unworthy of toleration. For many years, however, the Statute had been evaded, and its evasion winked at by the constituted authorities, and it is a somewhat remarkable circumstance, that a pretty liberal infusion of Episcopalian Professors, Lecturers and Students into the Scotch Universities seems to have been attended with no very fatal result. Indeed, while every University in Europe was practically thrown open to persons of all religious persuasions, Oxford and Cambridge alone were close, and yet modelled upon these exclusive establishments, in which High Church principles have ever been dominant, and a violent and bigotted hostility to the claims of Dissenters, has ever been maintained,—the attempt was made to establish a University, intended to be the hotbed and nursery of intolerant prejudices, in a country whose very atmosphere was freedom—whose infancy and growth, unlike that of the European States, had not been stunted by oppression—but which had sprung at once into the full manhood of liberty, and the possession of political rights, among a people who had ever evinced the most inveterate dislike of a dominant Church, and a severe jealousy of religious distinctions, and whose proximity to a land of free institutions, naturally made them chafe under any galling ascendancy which might expose them to the taunts of their ostentatious neighbours.

Were the character of Lord Bathurst less understood, or were the blind and bigotted zeal of the High Church party in England, as well as in Canada, less violent and headstrong, it would be difficult to conceive how the gross and calumnious misrepresentations of the Archdeacon of York, urged even though they were with the reckless temerity for which he is remarkable, should have escaped detection. Certain it is, that within the space of a few months, he had published statements, not only at utter variance with the truth, but most violently contradictory to each other. Thus, for instance, in his sermon on the death of the Bishop of Quebec, he complained that, "sectaries of all denominations are increasing on every side;" while in his letter to Mr Horton, he affirmed, that "the Church of England is rapidly increasing,' and that "the tendency of the population is towards that Church." In the sermon he admitted, that "even where churches were erected, the persons who gave regular attendance are so few as greatly to discourage the minister;" while in the letter he asserted that, "the people *are coming forward in all directions*, offering to assist in

building churches, and exhorting with the greatest anxiety the establishment of a settled minister." In the reckless statements which he poured forth in England, he unhesitatingly averred, that "the members of the Church of England were the most numerous of any religious denomination in the Province," but when examined on oath by a Parliamentary Committee in reference to the truth of that statement, and confronted with persons intimately acquainted with the state of the country, he admitted that "*he never knew* the number of members belonging to the Church of England, *and that he could not tell how numerous they were*." Such are only a very few of the glaring inconsistencies and contradictions which graced the written and public assertions of this Episcopal dignitary; and yet so little in unison was the local Administration with the interests and feelings of the people, and so little were those interests and feelings known or understood by the British Government, that his calumnies and mis-statements were implicitly believed, and, without further inquiry having been instituted, were made the ground for the establishment of an Episcopal University for the exclusive benefit of an unacceptable minority of the community.

It would be a matter for much curious and not unprofitable speculation, to inquire by what irresistible arguments of a violent and bigotted partizan, a Colonial Minister could be induced to insult the convictions, and to trample on the liberties of a free people. It was impossible to mistake Dr Strachan's *real* object, for that was openly avowed, and, in fact, it formed no part of his plan to conceal his ultimate design. His undisguised and avowed object was to Episcopalize the Province, and as the readiest means for attaining so desirable an end, he proposed that a fund, originally appropriated for the purposes of general education, should be applied to the endowment of "an essentially Missionary College, for the education of missionaries of the Church of England," who, he trusted, would be afterwards supported in such numbers by means of the Clergy Reserves, as would speedily reduce the Province to the ecclesiastical jurisdiction of that Church. And by what honeyed phrase and treacherous sentiment is this Colonial Minister induced to give his Majesty's sanction and approval of a nefarious and fraudulent scheme to rob the Canadian people of their birthright! Does the veracious Archdeacon inform the Colonial Secretary that there are three denominations in the Province more numerous than the Church of England? Does he tell him what, as a minister of Truth, he had but a few months before told the people of Canada from the pulpit, that "where churches are erected, the persons who give regular attendance are so few as greatly to discourage the minister," and that "sectaries were increasing on every side?" Does he intimate that the means for the diffusion of general education are deplorably deficient, and that the endowment originally set apart for that purpose had never become available? Dr Strachan has too ready a perception of the character with whom he had to negotiate, to hope for success by revealing startling facts, but he at once reverts to the old argument, practically carried out by the Stuarts, and which still has its admirers among the High Churchmen of England. He informs the Secretary that the dissenting preachers are few and ignorant, and that their hearers are

disaffected The dissenters were ignorant—and yet he would exclude them from the best education which the country could afford! They were disaffected—and yet he would drive them for their education to foreign seminaries, where their principles might be endangered! Their ministers were placed in situations requiring the highest cultivation of the mind—and yet he would debar them from the means of qualifying themselves for the discharge of those duties which their situation imposed upon them! He would exclude them from knowledge—and yet punish them for ignorance! He would rail against their disaffection, and yet preclude them from the enjoyment of those civil privileges which were open to others by partiality and favoritism! Admirable High Church logic! Generous exuberance of High Church philanthropy! It is not impossible that the love of classical allusion which recently inspired the recondite Bishop of Toronto, in his luminous comparison of the principle of University Bill with the policy of "Pagan Rome, which, to please the nations she had conquered, condescended to associate their impure idolatries with her own"* may also have felicitously suggested to the erudite Archdeacon of York, a parallel illustration of High Church doctrine in the Emperor Julian's celebrated decree, which prohibited all Christians from the study of heathen learning—for, reasoned this practical and precocious expounder of High Church policy—"they will wound us with our own weapons, they will overcome us with our own arts and sciences" Alas! how fatal to the peace and prosperity of Canada—how disastrous to the interests of true religion has it been, that this proselytising Prelate, and the intolerant party with which he is associated, should never have been able to discover that if the principles of Episcopacy are so conducive to loyalty and good government, no more effectual method could be devised for bringing the dissenters within the pale, as well of the constitution as of the Church itself, than by admitting them to a full and unreserved participation with its members in the privileges and benefits to be derived from the general institutions of the country

CHAPTER III.

PROCEEDINGS IN PARLIAMENT

Dr Strachan's calumnious misrepresentations drew down upon him the indignation of the whole Province Numerous petitions from every part of the country, and from Christians of all denominations, were addressed to the Provincial and Imperial Parliaments, emphatically disavowing the disaffection which had been libellously imputed to them Many who had been previously passive were now roused into active exertion Public meetings were held at

* See Bishop Strachan's Memorial to the Legislature against the University Bill, in 1843.

York and various other places, where expression was freely given to the indignation which was universally felt at the illiberal and exclusive provisions of the Charter, and the base insinuations by which the character of the Clergy had been stigmatized. This fresh attempt to trample on their civil rights was viewed by the people as part of that system of religious intolerance under which they had long groaned, and of which Dr Strachan had been the chief promoter

Year after year he had opposed a Bill to allow the Clergy of the various sects to solemnize marriages among their own flocks, and through his nefarious instrumentality, a Bill authorising the different denominations to hold lands which had been repeatedly passed in successive sessions by the Assembly, was defeated in the Legislative Council. Irritated by direct injury, and indignant at the manner in which their representations had been received by the Local Administration, it was at length resolved to make a solemn and direct appeal for redress to the British Government, and, at the same time, to call the attention of the Imperial Parliament to the degrading position in which the people of Canada felt themselves placed by the local Government. Accordingly, at a Public Meeting, held at York, in the beginning of 1828, an Address to the House of Commons was agreed upon, and, after receiving the signatures of 8000 Christians of all denominations, was transmitted to Mr. Hume for presentation. In laying this Address on the table of the House, Mr Hume ably exposed Dr. Strachan's calumnious insinuations and mis-statements, and thus alluded to the Charter of King's College —

"The Charter requires all the Professors and Officers of the University to subscribe the Thirty-nine Articles of the Church of England. This is the spirit in which the regulations are drawn up for a Public Seminary, at which the youth of Upper Canada are to be educated. They are taught by Professors who hold the tenets of a small minority only of those Provinces. I have reason to believe that His Majesty's Government have been much imposed upon by Dr Strachan, whose statements are completely exposed by the petition. That reverend gentlemen has aroused all classes by his aspersions upon the Clergy of all other denominations. He has thrown out the most vague accusations and suspicions respecting their fidelity and loyalty, which he has addressed especially to the Royal ear, with the view of poisoning it. Among other misrepresentations, Dr Strachan stated, that of all the Clergymen in Upper Canada, not belonging to the Church of England, there were only five who were not from the United States, where, he said, they acquired opinions at variance with their duty as subjects of His Majesty. He asserts, also, that they are under the influence of the American Conference, and that the Colonial Government has no control over them. This is a gross misrepresentation, yet by means of it, Dr Strachan has persuaded His Majesty to increase the exclusive privileges of the Church. What will the House say, when I tell them that the members of the Church of England form only a tenth part of the population, and when they hear how grossly Dr Strachan has slandered the other Clergymen of Upper Canada? By the investigation which has been instituted in consequence of his misrepresentations, it appears that there are altogether three hundred and twenty-five Clergymen in Upper Canada, of whom there are only thirty-one Ministers of the Church of England. Yet on the recommendation of the reverend gentleman, His Majesty's Ministers were to establish three hundred Ministers of the Church of England at the public expense, and had endowed an University,

for the education of all classes, where the Professors are required to belong to the sect which comprises only a tenth part of the population. Of other Clergymen, there are one hundred and seventeen Methodists, forty-five Baptists, and about forty or fifty of other denominations. So far from all of them having been educated in the United States, one hundred and thirty-three of the Methodists and Baptists, though only eleven of the Ministers of the Church of England, were all born and educated in His Majesty's dominions. These were the slanderous representations made by Dr. Strachan against so respectable a body as the Clergy of Upper Canada. The Clergy alone do not deem themselves aspersed by these statements: their congregations also, and justly, considered themselves calumniated. The petitioners object to any sect being particularly selected for preference and ascendancy, and they beseech the House that Christians of all denominations may enjoy the blessings of religious liberty, and, according to their talent, worth, and knowledge, be encouraged and protected. How utterly false the statements of Dr. Strachan are respecting the character and conduct of the Methodists, may be inferred from the answer he has received as to his assertion, that a large proportion of the members of the Assembly belong to the Church of England. The Legislative Assembly of Upper Canada have lately agreed to this effect—'That the number of members of the Protestant Episcopal Church appears but very small, in proportion to the number of other Christians, notwithstanding the pecuniary aid received by that body from the Society in England, and its pretensions to the monopoly of the Clergy Reserves.' This resolution was supported by twenty-seven members out of the thirty who compose the Assembly. It is a complete denial of the statements of Dr. Strachan, which are shown to be unfounded in every respect, and unworthy of belief. The reverend gentlemen, in his letter, said that there was a tendency among the people of Upper Canada to follow the Church of England; and, on the faith of this representation, he has obtained an annual stipend to build churches for the use of only one-tenth of the population. He is acting altogether in a manner to excite the strongest feelings of the Colony against him and the Establishment to which he belongs. The peace of Upper Canada has been endangered by the conduct of Archdeacon Strachan. His conduct has produced more discontent than any other subject whatever. This reverend gentleman tills his letter with attacks upon the other religious denominations, and what has been the consequence? There is not a county in the Province that did not declare the letter to be a slander, and the House of Assembly, by a majority of 27 to 3, declared it to be gross and slanderous libel on the Province. And did the Government call this man to account? No—this individual was allowed to remain, and no interference on the part of the Attorney General was made, although if a Dissenter, or any person belonging to any other sect had written such a letter as that of this Archdeacon, an *ex-officio* information would have been inevitable. This man ought not to be allowed to go on and create discontent throughout the Province."

A copy of the Charter having been transmitted by the Lieutenant-Governor to the Legislative Assembly, its provisions created much dissatisfaction, and were severely animadverted on. The House ordered a copy of the Report of their Committee, with the evidence which they had procured, and the Charts framed in accordance therewith, to be transmitted to the Imperial Parliament; and, at the same time, adopted the following Address to the King, which was passed by a majority of twelve in a House composed of thirty members:—

"TO THE KING'S MOST EXCELLENT MAJESTY.

"Most Gracious Sovereign!

"We, your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly beg leave to represent to

your Majesty, that we have seen, with equal surprise and regret, a Letter and Ecclesiastical Chart, addressed by the Honourable and Venerable Doctor Strachan, Archdeacon of York, a member of your Majesty's Legislative and Executive Councils of this Province to the Right Honourable R. J. Wilmot Horton, Under Secretary of State for the Colonies, as they are inaccurate in some important respects, and are calculated to lead your Majesty's Government into serious errors

"We beg leave to inform your Majesty, that of your Majesty's subjects in this Province, only a small proportion are members of the Church of England, that there is not any peculiar tendency to that Church among the people, and that nothing could cause more alarm and grief in their minds than the apprehension that there was a design, on the part of your Majesty's Government to establish, as a part of the State, one or more Church or denomination of Christians in this Province, with rights and endowments, not granted to your Majesty's subjects in general of other denominations, who are equally conscientious and deserving, and equally loyal and attached to your Majesty's Royal Person and Government. In following honestly the dictates of their conscience, as regards the great and important subject of religion, the latter have never been conscious that they have violated any law or obligation of a good subject, or done any thing to forfeit your Majesty's favour and protection, or to exclude themselves from a participation in the rights and privileges enjoyed by your Majesty's other subjects.

"We humbly beg leave to assure your Majesty, that the insinuations in the Letter against the Methodist Preachers in this Province do much injustice to a body of pious and deserving men, who justly enjoy the confidence, and are the spiritual instructors of a large portion of your Majesty's subjects in this Province. We are convinced that the tendency of their influence and instruction is not hostile to our institutions but on the contrary is eminently favourable to religion and morality—that their labours are calculated to make them people better men and better subjects, and have already produced in this Province the happiest effects

"While we fully and gratefully appreciate your Majesty's gracious intention in granting a Royal Charter for the establishment of an University in this Province, we would beg most respectfully to represent, that, as the great body of your Majesty's subjects in this Province are not members of the Church of England, they have seen, with grief, that the Charter contains provisions which are calculated to render the institution subservient to the particular interests of that Church, and to exclude from its offices and honours all who do not belong to it. In consequence of these provisions its benefits will be confined to a favoured few, while others of your Majesty's subjects, far more numerous and equally loyal and deserving of your Majesty's paternal care and favour, will be shut out from a participation in them. Having a tendency to build up one particular Church to the prejudice of others, it will naturally be an object of jealousy and disgust. Its influence as a Seminary of learning, will upon these accounts, be limited and partial. We therefore humbly beg that your Majesty will be pleased to listen to the wishes of your Majesty's people in this respect and to cause the present Charter to be cancelled, and one granted, free from the objections to which, emboldened by a conviction of your Majesty's paternal and gracious feelings to your loyal subjects in this Province as well as by a sense of duty to the people, and a knowledge of their anxiety upon the subject, we have presumed to advert.

"JOHN WILSON, *Speaker*

"*Commons House of Assembly*,
"20th March, 1828."

The universal excitement throughout the Province caused by the arbitrary attempt to establish a dominant Church, supported by a privileged University,

among a people in the last degree hostile to their pretensions, at length attracted the attention of the British Government, and on the motion of Mr. Huskisson, then Colonial Secretary, in compliance with the wishes expressed in the Canadian petitions, a Committee of the House of Commons was appointed to investigate the whole subject of the Civil Government of the Province. In the spirited debate which took place on this motion several distinguished members expressed their strong disapprobation of the principles of the Charter of King's College and inveighed against the absurdity of forcing the exclusive restrictions of the English Universities upon a people who had invariably opposed the intrusions of law into the domain of conscience and religious opinion. Sir James Mackintosh the gifted philosopher, statesman, and historian, on that occasion, observed

"Endowments may be sacred, when they are guarded by centuries of existence, and by a long and well-known system of law; but I do not see any reason for making them now in a new land, where the religion is different from that of the Church to which they are granted. Neither do I understand the regulations which have been made for the new College of Upper Canada. I see with astonishment that in a country where the majority of the people do not belong to the Church of England, the Professors must all subscribe the Thirty-nine Articles; so that if Dr. Adam Smith were alive, he could not fill the Professor's Chair of Political Economy; and if Dr. Black were alive, he would be excluded from the Chair of Chemistry. In short, these regulations would exclude almost all the great teachers and illustrious men of the last age, were they in existence, and that too in a country where no such thing as a Test Act is known. I do not know what will be the consequence of such an arrangement. I cannot see by what process of the human mind it can happen that the inhabitants of Canada shall like a College which is foreign to the institutions of America, which is in favour of a Church which is not of their religion. It is a bad augury. I think, for the administration of the colony; and it confirms an opinion that I have long entertained, that it is not fitting for us here to make a charter for a colony which is some thousand miles distant from us. If a faction in the colony should have made the regulations of which I complain, we ought to interfere to prevent its operation."

On the same occasion, Lord Stanley, the present Secretary for the colonies, thus expressed his views

"I should be ready to contend, if I were now sitting on the committee, that if any exclusive privileges be given to the Church of England the measure will be repugnant to every principle of sound legislation." "I will not enter further into it at the present moment, except to express my hope that the House will carefully guard Canada against the evils which religious dissentions have already produced in this country and in Ireland; where we have examples to teach us what to shun. We have seen the evil consequences of the system at home. God forbid we should not profit by experience; and more especially in legislating for a people bordering on a country, where religious intolerance and religious exclusions are unknown. It is important that his Majesty's Canadian subjects should not have occasion to look across the narrow boundary which separates them from the United States, and see any thing there to envy. We should bear in mind the principles of a liberal and comprehensive policy, and be checked by none of those considerations, which at home, perhaps, it is necessary to observe with respect to previous interests and existing prejudices. There we may begin *de novo*—there we may follow the most unfettered liberality—the soundest and most prudent policy we can adopt. We may thus preserve our friendly relations with Canada,

both as the Parent State while she remains a Colony, and when, in the course of ages, she becomes independent as an ally."

During the course of their investigations, the Charter of King's College was brought under the notice of the Committee, and, as a modification of its provisions had been warmly urged in all the petitions from the Upper Province, the Committee took great pains to ascertain accurately the Ecclesiastical Statistics of the country. Proceeding upon the voluminous evidence which they collected from persons of unquestionable character, they reported that the most important assertions of the petitions had been completely proved, and the result of their general labours was to suggest many liberal views of policy and important changes in the administration of affairs. On the subject of King's College they entered cordially into the views of the petitioners, and as the Report of the Committee continued for many years to form the text-book by which the Colonial Ministers professed to be guided in transmitting their instructions to the successive Governors, it may be proper to quote from its recommendations in reference to the University.

"The attention of the Committee having been drawn to the establishment of the University of King's College at York, they thought it their duty to examine the Charter granted to that College. Of the great advantage which the establishment of a College, for the purposes of general education in Upper Canada, is likely to confer upon the Province, the Committee entertain the strongest conviction; they lament only that the institution should be so constituted as materially to diminish the extent to which it might be useful.

"It cannot, they think, be doubted, as the guidance and government of the College is to be vested in the hands of the Members of the Church of England, that in the election of Professors a preference would inevitably be shewn to persons of that persuasion, and in a country where only a small proportion of the inhabitants adhere to that Church a suspicion and jealousy of religious interference would necessarily be created."

The Committee then go on to recommend the establishment of two Theological Chairs for the Students of the Churches of England and Scotland respectively, but with respect to the President, Professors, and all others connected with the College, no religious test whatever should be required.

"That in the selection of Professors no rule should be followed, and no other object sought than the nomination of the most learned and discreet persons, and that (with the exception of the Theological Professors) they should only be required to sign a declaration, that as far as it was necessary for them to advert in their lectures to religious subjects, they should distinctly recognise the truth of the Christian Revelation, but would abstain altogether from inculcating particular doctrines."

It has often been urged by the High Church party that the people of Canada being unable to appreciate the advantages of the religious and intellectual discipline pursued at Oxford and Cambridge, any attempt by them to interfere with the Constitution of King's College would be in the highest degree dangerous and unbecoming. Some guarantee for the safety and policy of the modifications demanded, may, however, be found in the names of those individuals by whom this Report was framed, and as the foundation of much of their subsequent fame was formed at the revered Educational Institutions of England, it is probable that

the meritorious parts of their system were not overlooked. Among the Committee were Mr Huskisson, Mr Wynn, Sir James Mackintosh, Mr Wilmot Horton, the Solicitor-General, Mr Vesey Fitzgerald, Mr (now Lord) Stanley, Mr Stuart Wortley, Lord Francis Leveson Gower, Mr Baring, Lord Viscount Sandon, and Mr Labouchere.

When the Report was laid before the House of Commons, Sir George Murray—a consistent Conservative and a prominent friend of the Church—had succeeded to the Colonial Department—and as he had personally visited Canada, and was therefore in a position to form a fair judgment of the character of the institutions which might be best adapted to the circumstances of the country, his opinion may be entitled to some weight.

"It appears," he said, "that the Committee object to the Constitution of the College, and recommend that in the selection of Professors no rule shall be followed, and no other object sought than the nomination of the most learned and discreet persons. In this view I concur. I think it would not at all interfere with the religious opinions of the Students that Professors should be chosen without reference to the Christian denomination to which they belong."

The opinion of the Colonial Secretary thus frankly avowed was acted upon practically in his instructions to the Lieutenant Governor, under whose notice he brought "all the points recommended by the Committee." In his despatch to Sir F. Maitland, dated 29th Sept., 1828, he observed—"It would be deservedly a subject of regret to his Majesty's Government, if the University, recently established at York, should prove to have been founded upon principles which cannot be made to accord with the general feelings and opinions of those for whose advantage it was intended." At the same time he suggested that any alterations in the Charter should be made through the representatives of the people, and in the mean time he directed that its operation should be suspended till such modification of its provisions was made. Further evidence of Sir George Murray's views on the subject of the University is obtained from a speech which he subsequently, and after he had quitted office, delivered in the House of Commons, and in which the subject of King's College is thus incidentally mentioned:—

"I have been desirous to remove as much as possible every grievance which pressed upon any portion of His Majesty's subjects on account of their differing upon points of religious belief from the doctrines laid down by the Church of England. I wish at all times to act upon the principles opposed to those of exclusion on account of religious differences of opinion. I could quote an instance indeed, in which, in my public capacity, I carried that principle into effect. A short time before I came into office, as Secretary for the Colonies, a Charter had been granted for founding a University at York in Upper Canada, which was to be established upon the exclusive principle of giving admission to a share in the government of it only to members of the Established Church. I objected to this. *The principle of exclusion once recognised in Canada under a Charter of the Crown, I thought we would be sowing in the new world the seeds of those very evils which had given rise to so many dissensions and occasioned so many conflicts in the old.* I therefore urged that instead of establishing the College at York, on exclusive principles, a College should be founded at Montreal,

in which no distinction should be made on account of religious differences of opinion. I was led to fix upon Montreal, partly on account of its central situation, and partly because it so happened that a sum of money had been left by a benevolent individual, for the purpose of forming a Protestant Seminary for education at that place. This sum I wished to unite with the other for the purpose of establishing a College at Montreal, for all classes of his Majesty's Canadian subjects, without any exclusion on account of religious opinions."

When Sir John Colborne assumed the administration, towards the close of the year 1828, the excitement on the subject of the University had gathered strength throughout the Province, and his Excellency soon perceived that it would be absolutely necessary for the peace of the country to effect some settlement of this irritating matter. The College Council had, in the mean time, been formed under the Charter, and as the materials of which it was composed, closely reflected the character of those who then monopolized the patronage of the Crown, the most determined resistance was made to the proposed modifications. In carrying out the instructions of the Colonial Secretary, to submit the Charter to the Legislature, it appeared to the Lieutenant-Governor to be advisable in the first instance to secure the co-operation of the College Council. The influence of that body in the Legislative and Executive Councils being paramount, it was easy to foresee that any measure of a liberal tendency which might be passed by the Assembly, would be defeated in the Legislative Council,—a majority of the members having seats at the Council Board of the University. Accordingly on the 13th Dec., 1828, a few days after he had entered upon the administration, his Excellency convened the College Council, and anxiously urged upon them the necessity of surrendering the Charter, which had been obtained upon misrepresentation and concealment of facts. He referred them to the Report of the Select Committee of the House of Commons, which characterized the Charter as a grievance—alluded to the positive instructions which he had received from his Majesty's Ministers to submit the Charter to the Legislature—invited the co-operation of the Council, in effecting the amendments; and he emphatically declared, that in the event of their assistance being withheld, one stone should not be put upon another, and that he would concur in no measure to further the Institution, while the obnoxious provisions of the Charter remained unaltered. In his speech, on opening the Parliament, 9th January, 1829, alluding to his determination on the subject of the University, he said: "Measures will be adopted, I hope, to introduce a system in that Seminary, that will open to the youth of the Province the means of receiving a liberal and extensive course of instruction."

In consequence, however, of the persevering resistance of the College Council, and their powerful influence in the administration, no measure for the amendment of the Charter was submitted to the Legislature, and the House of Assembly, thus disappointed in their expectations, after some delay, addressed his Excellency on the subject, and with the view of possessing themselves of the necessary information, requested to be furnished with a statement of the funds which had been obtained and set apart for the erection of the University, and of the appropriations made from and out of these funds. On 20th March, 1829, a set of

resolutions, embodying the sentiments of the members, on the subject of the University, were severally put and *unanimously* carried.

The importance of these resolutions as indicating the wishes of the country at that time, is increased in consequence of the principles contained in them having been, at a later period, adopted as the foundation of a legislative measure which passed through the Assembly, but was defeated in the Legislative Council.

"*Resolved*—That the thanks of this House are due to his Majesty for his gracious intentions in erecting and endowing a University in this Province.

"*Resolved*—That much erroneous information has been communicated to his Majesty's Government upon that subject, under which misinformation this House apprehends the Charter was granted, with provisions not suited to the conditions and wishes of the people for whose benefit it was intended.

"*Resolved*—That the provisions requiring the President of the said University to be a Clergyman in Holy Orders of the United Church of England and Ireland, and to hold his office during pleasure, is highly inexpedient, because in the only Seminary of general learning in the country all collegiate offices and literary rewards should be conscientiously awarded according to moral and intellectual merit, should be enjoyed under no dependant tenure, and should be held forth as incentives to all candidates for academic honours, without making such honours subservient to favouritism.

"*Resolved*—That it is for the above reasons highly inexpedient that the Archdeacon of York, for the time being, by virtue of his office, should be at all times President of the said University.

"*Resolved*—That the provision requiring the President and the seven Professors constituting the College Council to be members of the said Established United Church, and to subscribe the Thirty nine Articles, is highly inexpedient.

"*Resolved*—That the Chancellor, President, and members of the Council, the Professors and other teachers of the said University, ought, after the organization of the same, to be elected by a Senate composed of the members of the Council, and others who have taken a degree in the said University above Bachelor of Arts, having their names on the Books of the College, such election to be made from the graduates from the said University or from the graduates from the Universities of England, Ireland, or Scotland of sufficient standing in their respective Universities to be candidates for such office or trust.

"*Resolved*—That it is inexpedient that the degree of Doctor of Divinity should be confined to those who subscribe to the Thirty nine Articles of the said Established and United Church, but that it should be obtainable by all graduates, who, professing the Christian faith shall, after due and impartial public examinations in the public Schools of the said University, evince the classical, biblical, or other learning and qualifications, proper to be acquired by candidates for such an honour.

"*Resolved*—That it would be expedient if the teaching of Doctrinal Divinity were confined to the examination of the Students, by questions put by the Professor out of the Bible, in the same manner as the classics in the University of Cambridge are examined upon and taught any science out of standard authors, leaving discretionary latitude to the Professors, only, in lecturing on biblical criticism, theology, evidences of Christianity, sacred history, and whatever collateral branches of learning may be appointed for candidates for Holy Orders, by which means would be obviated the principal difficulties apprehended from the same Professors being the instructors of Students professing the faith of different denominations of Christians.

"*Resolved*—That whatever in the said Charter in any degree gives a sectarian character to the said University, ought to be wholly done away

"*Resolved*—That with the exception of the exclusive and sectarian principles and unequal distribution of wealth prevailing in the Universities of Oxford and Cambridge, it is highly expedient to follow their institutions and modes of instruction, making from time to time such modifications as experience may point out

"*Resolved*—That without the patriotic disinterested, and impartial conduct of those to whose wisdom and management the infancy of this Institution shall be confided, without a strict observance of economy in the whole system, without inducing from Great Britain and Ireland Professors of acknowledged learning and worth, liberally paid, but not with that extravagance which would merge the rewards of honour in the sordid expectation of pecuniary gain, and without making grandeur of schemes and appearance yield to immediate practical and ostentatious utility, the University cannot gain public confidence, or realize the gracious intentions of His Majesty"

These Resolutions were presented to his Excellency with the following Address—

"We, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly request your Excellency's favourable attention to the Resolutions accompanying this Address, and we further humbly thank your Excellency for the interest your Excellency has manifested for the promotion of education in this Province, in a way suited to the wishes, feelings and genius of the people"

The Lieutenant-Governor thanked the Commons for this Address, and assured them that he would not fail to give immediate attention to the Resolutions which accompanied it The Session having forthwith terminated, no further proceedings took place in reference to the University

Before the opening of the next Session, Sir John Colborne applied himself with energy, in obedience to the instructions which he had received from His Majesty's Ministers, to effect a modification of the Charter Anxious still that this should be done with the friendly co operation of the College Council, and aware that without that co operation, any attempt to liberalize the Institution would be defeated in the Legislative Council he renewed his urgent entreaties to have the Charter surrendered. His exertions, however, having proved unavailing, he was at length compelled to suspend the operations of the Charter, and to direct his energies to such ameliorations in the defective system of Education, which then prevailed in the Province, as would best remedy the evils which the obstinate conduct of the College Council might inflict on the country In opening the Parliamentary Session, on 8th January, 1830, he thus censorily alluded to the opposition which he had received from that body, and to the defective state of Education throughout the Province

"The delay that may take place in revising the Charter of the University, or *in framing one suitable to the Province, and to the intention of the endowment*, must, in fact, under present circumstances, tend to the advancement of the Institution, as its use depends on the actual state of Education in the Province"

The Address of the House of Assembly in answer to his Excellency's Speech, thus met his allusions to Education

"We are glad to find that your Excellency still anticipates a modification of the Charter of King's College, which has at present constituted, in undeserving of public patronage and likely to become a sectarian institution, and prove equally injurious to the purity of our religion and to the liberties of our people.

"While we are willing to support a College for instruction in the professions, and in the higher branches of sciences, we feel it to be a primary and more imperative duty to provide for the general extension of the means of Education among the people in every township. But we entirely with the opinion expressed by your Excellency, that dispersed as the population is over an extensive territory, a general efficiency in the Common Schools cannot be expected, particularly while the public salaries of the Masters, and the small remuneration which their patrons in the present condition of the country can afford to give, will not admit of their devoting their whole time to their useful calling.

"From these considerations we feel the increased necessity and duty of securing, besides the sum already provided by law, a more equal and just distribution of the proceeds arising from the lands reserved for Education, from which resources the people have hitherto derived no advantage."

The House of Assembly at the same time passed the following Resolutions, declaratory of its determination to resist the exclusive policy which had evinced itself on the part of the High Church party composing the Administration

"*Resolved*—That the Christians of various denominations in this Province have been deeply wounded in their feelings by the false and calumniating misrepresentations, made for the purpose of establishing an exclusive and proselyting system, which it has hitherto been attempted to strengthen and extend by rendering subservient to it the patronage of the Executive Government, and the unjust appropriation of the School Reserves for the support of a University, against the sectarian character of which this House can never cease solemnly to protest, as they already have done

"*Resolved*—That there justly is, in the minds of the people of this Province, a strong and settled aversion to a dominant Church connected with Government, and upheld by that Government in a claim to a monopoly of the Clergy Reserves, and to the enjoyment of peculiar privileges, to the exclusion and prejudice of various denominations in this Province."

Notwithstanding the symptoms of weakness and vacillancy which frequently exhibited themselves in Sir John Colborne's administration of the Government, it is but just to admit, that his personal views and designs, when unobstructed by the influence of the baneful oligarchy which at that time incubated on the Province, evinced a sincere desire for the prosperity of the country. To the cause of education in particular he devoted much of his attention and energy, and it is probable that he might have succeeded in effecting a considerable amelioration of the defective system which then prevailed had his plans not been frustrated and overruled by the illiberal and fatal opposition of Dr Strachan and his intolerant party. The provisions which had been from time to time made by the Legislature for the diffusion of instruction among the people were rendered completely nugatory by "the scheme," which the Archdeacon of York, in a moment of incautious vanity, divulged to the Society for the Propagation of

the Gospel He had truly been "*instrumental* in *establishing* a *scheme* in *Canada, by which the education of the whole population was virtually under the direction of the Church*"—and from which, he might have added, the people generally derived scarcely a larger amount of benefit than the pleasant gratification of seeing the pecuniary necessities of the Venerable President of the Educational Board relieved by an annual stipend of £300 from the Parliamentary grant. It formed no part of "the scheme" of this disinterested patron of learning, to permit any of the classes who contributed so largely towards the maintenance of the Schools to participate in their superintendence The exclusive control was monopolised by the members of the Episcopal Church, and the appointment of Trustees from one communion alone had occasioned so much jealousy and bitterness, that the Schools had sunk into a deplorable state of inefficiency which reflected deep disgrace upon the Province

Sir John Colborne was fully alive to the defects and corruptions under which the system laboured, and to the absurdity of establishing a University for the higher branches of learning, while the children of the yeomanry were exposed to the evils and dangers of almost unmitigated ignorance. It was indeed abundantly apparent that the country, as it then existed, would derive a greater amount of benefit from the general diffusion of the means of instruction, and that the objects of the Royal Grant would be more effectually promoted if a liberal education could be placed within the reach of the people, than if the endowment were applied to the establishment of a great metropolitan seat of learning, for which the youth of the Province were not fitted by a proper preparatory course The first efforts of the Lieutenant-Governor were therefore directed to an extension of the Common and District Schools, and to a more liberal system of management and tuition But these benevolent designs did not meet the approval of Dr Strachan and his party, and his Excellency was compelled to succumb to their superior influence— Unwilling however, to relinquish his plans altogether, he took an intermediate course and submitted to the College Council a proposal for the establishment of an Academy of a superior class at York, which might at least prepare the children of the higher ranks for the advantages of the University. This proposal having met with no opposition, his Excellency, by Message, submitted his plan to the House of Assembly

"The Lieutenant-Governor has no doubt that it would be deservedly a subject of regret to his Majesty's Government if the principles on which the University is founded cannot be made to accord with the *general feeling and opinion of those for whose advantage it was intended* and he believes that the first change in the Charter which should be recommended, and which would conduce more than any other to its becoming eminently useful to the Province, is the connecting the Royal Grammar School with King's College, in such a manner that its Exhibitions, Scholarships, and chief support may depend on the funds of that endowment

"The advantages that will result from an Institution conducted by nine *or* ten able masters under whose tuition the youth of the Province could be prepared for any profession are indisputable and if such a School were permanently established, *and the Charter so modified that any Professor shall be eligible for*

the Council, and that the Students in the College shall have liberty and faculty of taking degrees in the manner that shall hereafter be directed by the statutes and ordinances framed by his Majesty's Government, the University must flourish, and prove highly beneficial to the Colony."

This proposal having been acceded to, the Royal Grammar School was superseded, and Upper Canada College was opened on 4th January, 1830, for the purposes of tuition. An endowment of 60,000 acres was afterwards procured for its support from the residue of the general School Lands, together with the site of the College, and some valuable town lots, and by means of the aggregate funds that were expected to accrue from these sources, and from the fees payable by the Students, it was fully expected that under a proper system of management, a sufficient income would be derived for the proper maintenance of the Establishment. How far these expectations have been realized will form a matter for future enquiry.

CHAPTER IV.

THE AMENDED CHARTER.

The reform of the University now became intimately connected with another question which had already created much excitement and irritating discussion, and which was destined to have a material influence on the future peace and welfare of the Province. By the Imperial Act 31, Geo. III, ch. 31, one seventh of the granted lands in Upper Canada had been set apart for the support of a Protestant Clergy. This ecclesiastical provision had, under the phrase of "a Protestant Clergy," been heretofore limited by the Government to the United Church of England and Ireland. A claim was at length put in by certain members of the Church of Scotland to a share of the provision, and this claim was afterwards assumed and insisted on by the other Protestant denominations in the Province. The appropriation by the Government exclusively to one Church, or the extension of it to others, thus became a question of almost absorbing public interest. The House of Assembly repeatedly offered strong remonstrances against any favour or assistance on the part of the Government to one or more religious denominations which was not equally bestowed upon all, and the principles of religious supremacy and exclusion in favour of the Church of England, contained in the Charter of the University, appeared to the members of that body as a part of a system conducive to the extension and perpetuation of an injurious policy, inconsistent with that perfect equality of rights and privileges to which it was thought Christians of all denominations in the Province were entitled. In conformity with these views the Assembly on 12th March, 1831, caused the following address to be prepared and transmitted

"TO THE KING'S MOST EXCELLENT MAJESTY.

"Most Gracious Sovereign,—

"We, your Majesty's dutiful and loyal subjects, the Commons of Upper

Canada, in Provincial Parliament assembled, beg leave most humbly to submit to your Majesty, that by an Act of the Parliament of Great Britain, 31st Geo. III, one seventh of the lands of this Province was set apart for the support of a Protestant Clergy.

"That under that act appropriations have from time to time been made, and which appropriations are, in this Province, known by the name of the 'Clergy Reserves;'—that these appropriations having been generally made in lots of two hundred acres throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country, and principally from the improvement of the lands in the neighbourhood of such appropriations, by the labour of inhabitants composed of various denominations of Christians —that these Reserves being so interspersed with the lands of actual settlers, have materially retarded the improvement of the country —that by an act passed in the reign of his late most gracious Majesty, provision was made for the sale of a portion of these Reserves—that it is unjust as well as impolitic, to appropriate the said lands to the support of any one Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants.—that a large majority of the inhabitants of this Province are sincerely attached to your Majesty's person and government, but are averse to the establishment of any exclusive or dominant Church,—that this House feels confident, that to promote the prosperity of this portion of your Majesty's dominions, and to satisfy the earnest desire of the people of this Province, your Majesty will be graciously pleased to give the most favourable consideration to the wishes of your faithful subjects,—that to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves—to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of Education; it is extremely desirable that the said lands so reserved be sold and the proceeds arising from the sale of the same, placed at the disposal of the Provincial Legislature, to be applied exclusively for that purpose We therefore humbly pray, that your Majesty will be graciously pleased to recommend to your Majesty's Parliament of Great Britain and Ireland to pass an act to authorise a sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of Education

"We also most humbly beg leave to submit to your Majesty that while we fully appreciate the gracious intention of our late revered Sovereign to promote education, by granting a Royal Charter for the establishment of an University to this Province, we feel it incumbent on us to represent, that as the great majority of your Majesty's subjects in this Province are not members of the Church of England, it is matter of regret that the Charter contains provisions which are calculated to exclude from its principal offices and honours all who do not belong to that Church

"In consequence of these provisions the benefits of the Institution will be confined to a few individuals of one religious denomination, while others of your Majesty's subjects, equally loyal and deserving will be excluded from participating in advantages which should be open to all Its influence, as a Seminary of learning on this account must be limited and will be looked upon with jealoosy by a large majority of the inhabitants of this Province We therefore humbly pray that your Majesty will be graciously pleased to cause the Charter of King's College to be cancelled, and to grant another free from the objections to which our duty to the people of this Province has induced us to advert."

This address was transmitted to the King by Sir John Colborne, who, on

receiving it, thus announced to the House his instructions on the subject of the University

"Gentlemen,—I will forward this Address to the King immediately. It may, however, be satisfactory to you to receive the information, that I have reason to believe that either the exclusive provisions considered exceptionable in the Charter of King's College have been cancelled, or that such arrangements have been decided on by his Majesty's Government, as will render further application on this subject unnecessary.

"A Charter, solemnly given, cannot be revoked without much delay and circumspection, but his Majesty's Ministers have long directed their attention to the great advantages which the Province will derive from an University being established on principles that may be approved of by every good and enlightened person."

Meanwhile the excitement on the subject of the University continued unabated throughout the country. At a public meeting held at York, on 10th December, 1830, a Petition to the British House of Commons was adopted, and before being transmitted, received upwards of 10,000 signatures. This Petition embraced the subject of the Clergy Reserves, and prayed a modification of the Charter of King's College, established at York, in Upper Canada, so as to exclude all sectarian tests and preferences, and to appropriate the proceeds of the sale of lands heretofore set apart for the support of a Protestant Clergy, to the purposes of general education and various internal improvements".

An Agent was appointed to carry this Petition to London, and on the occasion of its being presented to the House of Commons, Sir George Murray observed,—

"I trust that the sentiments which I have always entertained upon the subjects to which this Petition relates are sufficiently well known to the House. *I conceive that nothing can be more unfortunate for any State than that political distinctions should be founded on differences in matters of religion. I believe that those distinctions can never arise, except when religion has been made subservient to the selfish interests and to the unholy passions of men.* I agree entirely in the objection which has been taken to that part of the Charter of King's College, which introduces a distinction on the score of religion. While I was in office I suspended the operations of the Charter, *having it in contemplation to abolish entirely that distinction, and had I remained in office, I should certainly have done so.*"

Copies of the Canadian petition to the House of Commons, and of the proceedings and resolutions of the House of Assembly, were at the same time laid before the Colonial Secretary.

These proceedings had the effect of turning the immediate attention of the British Government to the danger of the exclusive policy which had been pursued under the erroneous statements and evil counsel of the Archdeacon of York. His Majesty's Ministers at once saw the necessity of concession, and endeavoured to retrace the false step that had been made, by giving their formal sanction to the modification which had been proposed by the Assembly. With this view his Excellency Sir John Colborne was instructed to bring the matter before the College Council, and to insist upon a surrender of the Charter, in order that it

might be modified by the Provincial Parliament, in such a manner as would adapt it to the situation of the country and the wishes of the people.

Acting upon these instructions, the Lieutenant-Governor convened the College Council on 2nd November, 1831, and laid before them a Despatch from Lord Goderich, then Colonial Secretary—in which his Lordship referred at considerable length to the original purposes of the grant, and the design of the British Government in establishing a University. He observed that "it is greatly to be regretted *that any thing in the constitution of the establishment should have tended to counteract, if not defeat this laudable design, and practically deprive the Province of the advantages anticipated.*" "*It cannot be denied,*" he continued, "*that the exclusive and restrictive character given to King's College University has had this effect.*" His Lordship then alluded to the suggestions of the Committee of the British House of Commons in 1828, which had been transmitted by his predecessor in the Colonial Office, with the view of their forming the basis on which the constitution of the University should be established, and he earnestly recommended that the course then advised by his predecessor should now be pursued. He also signified *his approval of the Resolutions adopted by the House of Assembly in* 1829, quoted in the preceding chapter, and insisted that the College Council should immediately surrender the Charter that it might undergo such modifications as the Parliament of Upper Canada should determine, but in requiring such surrender he pledged himself to the Council that the endowment should be applied to no other purpose than that of education.

The advice thus frankly offered, and the request contained in the despatch of of the Colonial Secretary, were obstinately declined by the College Council, who, in a lengthy report, framed in answer to the despatch, maintained their position with a reckless temerity, which, at the present day, might excite surprise, were the fact not sufficiently explained by the overwhelming influence which its members possessed in the Executive and Legislative Councils of Upper Canada. Hitherto the obstacles interposed by the College Council—who had been long the prominent leaders of the High Church party—to the diffusion of general instruction, had proved most disastrous to the country. It was quite obvious to every one, that the concentration of means accruing from a productive endowment on an exclusive Seminary beneficial only to a few, so long as the elementary Schools, owing to the unproductiveness of their endowment from causes beyond control, were in a state of comparative destitution, was a proceeding not only inverting the order of the entire scheme but eminently calculated to create a dissatisfied and invidious feeling on the part of a large portion of the community. So long indeed as means were wanting to confer elementary instruction commensurate with the increasing demands of the country, the prior formation of a metropolitan seat of learning, irrespective of its exclusive character and constitution, was viewed with jealousy and disfavour even by those who, under more propitious circumstances, would have hailed its establishment and would have been well satisfied to see it in active operation. The functions of the General Board of Education—which for nearly eight years had been a libel on the name that it bore—ceased in 1832, and

with its demise the salary of the Venerable President, which during the same period had yielded him no less a sum than £2,250, also ceased to be exigible. The Archdeacon of York, however, whose genius was ever fertile in expedients, and whose zeal in the cause of education has always borne an affectionate approximation to the pecuniary advantages which he has derived as a "Patron of Learning,' naturally directed his restless energies to the University, as a compensating source of emolument. Holding the office of President, with the exclusive honour of being the only salaried member of the Council, he regarded with dismay every modification of the Charter which could have the most remote tendency to endanger his sinecure, an effect by no means unlikely to have followed from the admission of the Dissenters to a share in the government, and a conscientious administration of the affairs of the Institution

So long as this serious obstacle remained, all conciliatory attempts to obtain the consent of the College Council to the modifications required by the people of Canada signally failed, and the Colonial Secretary at length became convinced that no concession would be made to which the Council were not driven by the last necessity The Archdeacon of York had previously distinguished himself as an energetic and powerful opponent to the formation of the Canada Company and through his zealous interference its operations had been materially retarded It was at length, however, agreed, on the understanding that his personal opposition to the Company should cease, that an annuity of £1 000 for 16 years should be given from the funds of the Company in aid of the University Buildings. This grant had been paid for four and a half years, but was suspended by Lord Goderich—who penetrated the design of the College Council to maintain their position so long as they were provided with available funds,—until the Legislature should pass a Bill amending the Charter In the despatch of 5th July, 1832, by which he suspended the grant from the Canada Company he placed the remodelling of the University entirely in the hands of the Provincial Parliament, whose claim he distinctly recognised "to exercise the management of the territorial grants assigned for the purposes of education, it being assumed, from their having in questions of this nature the deepest share of interest, that they are therefore the most competent to judge of what is best adapted to the progressive wants and wishes of the community which they represent." His Lordship further observed, that "*when a change of this nature is desired by the inhabitants themselves, and is called for by an address from their representatives, I am of opinion that if there were nothing else to be considered than the accomplishment of the immediate object, it would be desirable to comply with wishes which have been so expressed*" Beyond enjoining that the funds of the endowment thus placed at the control of the Provincial Legislature should not be diverted from their governing object—the promotion of education—Lord Goderich did not think it expedient to prescribe any set regulations for the practical application of those funds his Lordship observing, "*that it would be worse than useless to destroy the grace of the concession which had been made, by attempting to clog it with objectionable conditions*"

The Despatch from which the above quotations have been made, was marked "Confidential;" but all any doubts remained as to the intention of the British Government on the subject of the University, they were satisfactorily removed by Lord Goderich's celebrated Despatch to Sir John Colborne of 8th November, 1832, which was laid before the Provincial Parliament. In reference to a proposal which had been made to place King's College on the list of constituent bodies enjoying the elective franchise, his Lordship thus expressed himself: "You will observe that I do not here refer to an University constituted in the manner proposed in the original Charter of Incorporation. Every man in Canada, however, knows, *that so far from any anxiety having been felt by the King's Government to maintain that Charter against the wishes of the great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question, in what form and upon what principles the College should be founded.*" And in the same Despatch, after repudiating a policy which would consign the children of the yeomancy to ignorance, lest knowledge should render them independent in action and in thought, his Lordship proceeds: "On the contrary, there is no one object connected with every part of his Majesty's dominions, which his Majesty has more at heart than the diffusion of sound knowledge in the legitimate and most enlarged sense of that term. This is not merely the first and highest interest of society, but is essential to the right use and peaceable enjoyment of every other civil and social privilege." And he thus points to the constitutional remedy for the abuses of King's College which his Majesty's Ministers were now most anxious to see relieved of every sectarian restriction:—

"*The Legislature of Upper Canada have already been invited to consider in what manner the University can be best constituted for the general advantage of society*, and His Majesty has studiously abstained from the exercise of his undoubted prerogative of founding and endowing Literary or Religious Corporations, until he should obtain the advice of the Representatives of the people for his guidance in that respect." "All minor distinctions should be merged in a general union for this important end (the diffusion of Education), and at the head of that union the local Government should be found encouraging and guiding and to the utmost of its power, assisting all the efforts which may be made to create or to foster a taste for intellectual enjoyments and pursuits." "Confident in your own concurrence, and in that of the members of the Legislature in those views, *I cheerfully remit to you and to them the office of originating the necessary plans for reducing the general principle into a definite shape* requiring of yourself in the first instance only that you should quicken the attention of the Legislative Council and Assembly to this subject, should you have reason to apprehend that it is in danger of being overlooked or forgotten."

In opening the Parliament on the 19th November, 1833, His Excellency Sir John Colborne thus communicated his instructions to the Legislature:—

"The important subject of public Education, which has in several Sessions occupied much of your attention, demands your early notice and consideration, particularly the questions which relate to the revision of the system of Township Schools—the application of the proceeds of sales of School Lands for the support of superior District Schools, and the requisite extension of the Royal Charter

under which the University is at present established. With respect to these points, and the immediate course which you may suggest to ensure the opening of the University, sanctioned by a Charter framed on more comprehensive principles than that which has been granted, there can be no doubt, that as the Province is fully prepared to reap the benefits which were intended to be conferred on it by the establishment of King's College,—*His Majesty will readily give effect to any measures proposed by you regarding its future government*, and the appropriation of School Lands that may tend to promote the purposes of the Institution, or add to the advantages which the Colony under the blessing of Providence, enjoys, by facilitating the diffusion of Education among all classes."

To this address, the House of Assembly answered that they would "use diligence in considering and maturing the requisite extension of the Royal Charter under which the University is at present established and His Excellency's assurance, that His Majesty will readily give effect to any measures proposed by us regarding its future government, and the appropriation of the School Lands to meet the purposes of Education, is an additional proof of His Majesty's paternal care for the advancement of the most important interests of his subjects."

No Legislative measure affecting the constitution of the University was introduced into the Assembly during this Session but at length in the Session of 1834-35, a Bill to amend the original Charter was framed upon the principles contained in the Resolutions of the House in 1829, which had received the approval of the Colonial Secretary

This Bill proceeded on the preamble that, "Whereas his present Majesty has been graciously pleased to satisfy through His Majesty's principal Secretary of State for the Colonies Earl Ripon, by his dispatch of the 8th November, 1832, communicated to the Legislature by His Excellency, by message, that so far from any anxiety having been felt by His Majesty's Government to maintain the said Charter against the wishes of a great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question to what form and upon what principles the said College should be founded." The Bill then declared that from henceforth it would not be necessary for the President and Professors to be members of the United Church of England and Ireland, or that they should subscribe the Thirty-nine Articles—That the Council should consist of twelve persons, one half of whom should be nominated by the Legislative Council, and the other half by the Legislative Assembly, and that they should hold their office for four years—That the College Council should elect the Professors, Tutors, and Lecturers—That the College Council should make rules and ordinances for the government of the University, subject to the approbation of the Chancellor—That no rules or ordinances should be passed by the Council imposing on the Professors, Tutors, Lecturers, Scholars, Graduates, under-Graduates, Students, Servants, or others, any religious form or mode of worship, or in any way whatever restraining them from attending on the Sabbath whatever place of religious worship they chose—That no religious test or qualification whatever should be required of the Chancellor, President, Professors, Tutors, Lecturers, Scholars, or other persons being candidates for any situation or honour in the College—That there should not at any time be allowed

to be within the College any public Professor, Lecturer, or Teacher of Doctrinal Divinity, according to the Articles of Faith professed by the United Church of England and Ireland, or according to the Creed or Faith of any other Christian or Religious Church whatever —And that the College Council should not apply any of the funds belonging to the University to the support of any public Professor, Lecturer, or Teacher of such Divinity.

The Bill was carried through the House of Assembly by a majority of 33 to 8 Among the majority were nine members whose views on other subjects were directly opposed to those of the liberal party, but so strong was the feeling throughout the country in favour of the measure, and so convinced were the members themselves of the flagrant injustice of planting exclusive educational Institutions among so varied a population as Canada contained, that the various resolutions submitted to the House, in successive Sessions and Parliaments, had been adopted with all but perfect unanimity. The delay that took place in effecting their object was occasioned solely by the obstinate resistance made by the College Council and total indifference of the local Government to popular opinion The influence of the Executive in the Legislative Council was such, that the persons composing the former could, at any time, either put a stop to the most wholesome measures, or forward to the utmost extent the sinister interests of any party whom they wished to favour. The Executive and Legislative Councils were indeed two bodies in name, but one in fact—the persons composing the one being the majority in the other—and each being alike irresponsible to the country. Under such an administration and antagonism of principles and interests, in the different branches of the Legislature, it was utterly impossible that the system of Civil Government could effectually promote the prosperity of the Province, or that wholesome measures could be passed suitable to the wants and happiness of the people The history of the University of King's College shews that the British Government had no wish to govern Canada but in accordance with the wishes of the great majority of the people, where these wishes were perfectly known and understood but the proper influence of the British Government was at that time comparatively unfelt, and the successive Governors, after a brief show of resistance, tamely submitted to the absorbing influence of the local oligarchy In this manner the Bill for opening the University to all classes and denominations although urgently and almost unanimously demanded by the people was destined to share the fate of almost every other measure of a popular character It was thrown under the table of the Legislative Council, and the ardent expectations of the country were disregarded with the reckless indifference of a party long habituated to trample upon popular rights

The arrival of Sir Francis Bond Head in 1836, and the general tenor of his instructions again excited the hopes of the friends of popular Government The distinct recognition which these instructions contained, of the right of the Provincial Parliament to legislate on the subject of the University and the desire evinced by the British Government to have the Educational Seminaries adapted to the circumstances of the country, afforded the highest gratification to the friends of

Education. Respecting the Collegiate Institutions of the Province—a complaint having been made by the Assembly that Upper Canada College was upheld at great public expense, with high salaries to its principal Masters—Lord Glenelg observed in his Despatch of 5th December, 1835:—

"His Majesty's Government can have no wish to retain any charge for this Establishment, which may be more than adequate to provide for the effective performance of the duties of the Teachers. Any wise retrenchment of that nature may, subject to the principles already mentioned, be immediately introduced. That the Province derives little benefit from this College, is a fact of which the explanation is to be found, not in the principle of the Institution itself, but in some error of management, susceptible, as it should seem, of an easy remedy.

"On the subject of King's College:—an unfortunate difference of opinion exists between the Council and the Assembly, which each of these bodies concurs in pronouncing incurable.

"His Majesty commands me to tender, through you, his mediation on this subject. With the previous assent of both Houses, the King will cheerfully resume the consideration of the question, in what manner a Charter could be most conveniently prepared, so as to promote the interests of Science and Literature, and the study of Theology and Moral Philosophy, with a due regard to the opinions which seem to prevail in the Province, respecting the proper constitution and objects of an University. But after having distinctly referred to the Local Legislature the duty of giving effect to their own wishes on the subject, *in the form of an Act of General Assembly*, his Majesty cannot, at the instance of one only of the two Houses, withdraw it from their cognizance."

Lord Glenelg's instructions to the Lieutenant Governor were laid before the Assembly, but events of a more pressing nature soon absorbed the attention of the Province, and the subject of University Reform was for a time laid aside. The contest between Sir Francis Head and the House of Assembly, respecting the responsibility of the Executive Council, created a serious rupture, which ultimately led to the refusal of the supplies, and terminated in the dissolution of Parliament. Whatever the real merits of that contest may have been, it is certain that in consequence of the extraordinary course then pursued by the Lieutenant Governor, the tone and character of the next House of Assembly, did not reflect the true state of popular feeling on many of the important questions which had previously agitated the country. No change had exhibited itself in the sentiments of the people on the subject of the University, but the elections had been decided on a question of a more exciting character—visionary indeed, of itself, but sufficiently plausible to afford available capital for Government agitation. The question of "British Connection" was represented as depending on the votes of the electors at the Hustings—and so successfully was the country deluded by a mere election-eering trick of the Government, that many individuals whose loyalty would otherwise have been far above suspicion, were deprived of their seats on account of their strenuous maintenance of popular rights. Notwithstanding the personal aversion, however, entertained by the majority of the new Parliament to interfere with the Charter of the University, the necessity of some alteration in its constitution was forced upon them by the prevailing sentiments of the country, and the modifications effected, however reluctantly admitted and injudiciously

made, at least settled the great principle for which the people had so long and anxiously struggled—the right of all classes and denominations to a full and free participation in the benefits of the Institution

In November, 1836, a Committee consisting of Messrs. Draper, Burwell, Aikman, Sherwood and Cameron, were appointed to frame a Bill, which would meet the demands of the country without being obnoxious to the illiberal principles of the Legislative Council. The Committee accordingly reported a Bill to amend the Charter of King's College; and as the principle upon which this measure was framed will claim some importance in the argument which it is proposed, in a subsequent chapter, to deduce from the historical sketch which has been given, it is proper to quote the principal amendments.

After reciting the original Charter, the Bill enacted that the Judges of his Majesty's Court of King's Bench should, for and on behalf of the King, be Visitors of the College, in the place and stead of the Lord Bishop of the Diocese of Quebec, for the time being, and that "the President of the said University, on any future vacancy, shall be appointed by his Majesty, his Heirs and Successors, *without requiring that he should be the Incumbent of any Ecclesiastical office*, and that the members of the College Council, including the Chancellor and President, shall be twelve in number, of whom the Speakers of the two Houses of the Legislature of the Province, and his Majesty's Attorney and Solicitor General for the time being, shall be four, and the remainder shall consist of the five Senior Professors of Arts and Faculties of the said College, and of the Principal of the Minor or Upper Canada College; and in case there shall not at any time be five Professors as aforesaid in the said College, and until Professors shall be appointed therein—the Council shall be filled with members to be appointed as in the said Charter is provided, *except that* IT SHALL NOT BE NECESSARY *that any member of the College Council to be so appointed, or that any member of the said College Council, or any Professor, to be at any time appointed, shall be a member of the Church of England, or subscribe to any Articles of Religion, other than a declaration that they believe in the authenticity and divine inspiration of the Old and New Testaments, and in the doctrine of the Trinity*: and further, that no religious tests of qualification be required or appointed for any person admitted or matriculated as Scholars within the said College, or of persons admitted to any degree or faculty thereto"

The Bill passed both Houses of the Legislature without opposition, and received the Royal Assent on 4th March, 1837

The principle of perfect religious equality among Christians professing the doctrine of the Trinity, thus recognized by the Legislature in the abandonment of the Episcopal test in the Amended Charter, was supposed to have terminated the struggle for religious freedom in this great educational institution. The University was satisfactorily divested of the Episcopal character imposed upon it by the original Charter, and the special claim of any religious denomination to exclusive privileges and provisions was intentionally barred. Unfortunately for the

Institution the individual, whose violent hostility to popular freedom and the rights of conscience, will give to his name an unenviable prominency in the civil and religious annals of this Province, was lost by the Amended Charter at the head of the management, and thus the struggle which the people loudly believed to have been terminated by the interposition of Parliament was renewed and maintained with hostility as determined, and zeal and energy as persevering as ever on the part of those whose duty it was to carry the principles on which the University was finally established into operation The supposed termination of the *public* contest for principle, which appeared to make a full recognition of the rights of all denominations of Trinitarian Christians was a mere truce, that the battle might be fought on different ground The scene of operations was merely changed from the Parliament of the Province to the Council Board of the University. But before we transfer the combatants to this new arena, in which some remarkable manifestations of character have been made, it is befitting that we briefly review the ground over which we have travelled.

In a more discursive history of the University of King's College, the intimate connection of that institution with the agitating questions in education and religion, which have for so many years disturbed this Colony, should have been exhibited more fully than the pretensions of the present sketch have permitted And this might easily have been done, by setting forth on the one hand the contemporaneous struggles of the people to obtain for themselves absolute freedom of thought and action in matters of faith and government, with equal advantages to Christians of all denominations, so far as education and civil rights were involved; and on the other the attempt visibly and sternly persisted in by a dominant compact, to introduce and perpetuate in this Province a dominant Church, and a negative persecution of what that Church chose to denounce as heterodox

When the Clergy Reserves were set apart, it is possible that the formation of a dominant Church established on the model of the Church of England may have been intended—and had such an intention existed it would appear to us only as the natural offspring of the state of religious intolerance, which prevailed in most nations of Europe, where for centuries past religious struggles were not for equality, but for domination; and where each sect, without even professing toleration, sought either to maintain itself in the national Church, or to reform that Church to its own model The Presbyterian form of worship and discipline, after a little attempt to force itself upon England, retired into the Church of Scotland, and left Protestant Episcopacy the national English religion The same Sovereign from the necessity of the case, became the earthly head of two antagonist Churches, sworn to preserve and maintain them both, and when the question arose as to what should stand in the place of a national Church in this Province, the Church of England, as by law established, may have been solely intended, or the national Church of Scotland as equally by law established, may have been contemplated as co-existent with the Church of England. At all events the law in setting apart the Clergy Reserves for a "Protestant Clergy,"

left the matter entirely open But the Church of England decided the question for herself that she had exclusive claim to a true Protestant Clergy, and thus got possession of the appropriation

The original claim of the Church of England to the School Lands did not indeed rest upon the *prima facie* title by which she maintained her right to the Clergy Reserves For in this case the endowment was placed in the hands of the Legislature for the purposes of *general* education—while in the former it was granted with a restriction which seemed to favour her pretensions Her claim to the School Lands therefore could only be maintained on her assumed right as an Established Church to have the exclusive direction of popular education

The first attempt at resistance to her monopoly of the Clergy Reserves arose on the part of the members of the Church of Scotland in Canada, who claimed that their Clergy were Protestant—and not only Protestant, but actually so, *as by law established* Both the contending parties forgot that it was the people of England, and the people of Scotland, respectively, who, after many years of bloody contention, established their Churches in their respective kingdoms—and that what should thereafter be the national Church in the American Colony, if it should ever have one, depended not upon the will of the British Parliament, but upon the faith and doctrines which should be adopted by the future Colonists on their own behalf Happily, very happily for Canada the claims of the Scottish Church, though strongly advocated in England, were too weak to prevail against the influence of the Archdeacon of York The conflict between the rival Churches created sufficient noise to awaken at length those who belonged to neither; and these latter, naturally enough, asked themselves, whether they wanted a national Church at all The Scottish Church being considerably the weaker, was baffled in the fight, and joined the independent sects in a combined attack upon the supremacy of Episcopacy, and eventually a national religion, or in other words a form of religion conferring exclusive rights or advantages upon its adherents, became to most intents and purposes a shadow or an empty name.

The High Church party among the Episcopalians, instead of maintaining that the Church of England existed here as a national Church, and that therefore the support granted by Parliament for a Protestant Clergy belonged to this Establishment, contended that the Clergy Reserves were granted and consecrated inalienably to the Church of England as such in this Colony—and for the Clergy they claimed as grantees the whole benefit of the Reserves The question was mainly debated in this form—but in this shape the real point was avoided And as the question has an intimate bearing on the claim which the Episcopal Church has set up to the exclusive control of the University, we shall endeavour to place it in its true shape, with such illustration as may be necessary to shew our meaning

We hold that any people may, by means adapted to their form of Government, erect and endow a national Church This national Church may be Roman Catholic, and may become Protestant Episcopalian, or Presbyterian, or Methodist, according to the will of the nation constitutionally expressed. And, by a parity

of reasoning, as the Church may, in a legal point of view, change its doctrine and still remain a national Church, so the same power which created it, may create many co-existent national Churches, or it may do without any national Church whatever.

At the Reformation in England, besides the confiscations of property appropriated to the Church and taken for state purposes—which confiscations we are not obliged here to defend or condemn—the ecclesiastical benefices throughout the nation were filled with Protestants in the room of Roman Catholics. The appropriations were originally made for the national Church,—not for the Roman Catholic Church,—and the property being national and not Roman Catholic, it continued without wrong in the national Church when it became reformed, and with that reformation forsook the Church of Rome. This could not have been the case had the property attached to the doctrine, or had it been considered in the light of an estate *vested in the Romish Church as once established in England.*

In the same manner in Scotland Episcopacy and Presbyterianism held Church benefices alternately, as either prevailed; but the benefices have continued national, and have followed the Church to this day.

Now it is very plain that had England and Scotland contained so many religious persuasions, upon terms of equality, or nearly so, as regarded members and wealth, as to make it impossible for any one to establish a supremacy, the national Church property could not have continued with any one sect. There must, in fact, have been many national Churches, or no national Church at all.

As regards this Province, it may have been the intention of King George III., or of his Majesty's Parliament, or of his Ministers, that the people of Canada should be all of the faith of the Church of England, or that some portions should profess the doctrines of the Church of Scotland, and that the Canadian Protestant Church should consist of one or both, as a National Church, but it is clear that events did not fulfil the intention. The people of the country, through a diversity of causes, became divided into many religious communities, no one of them having sufficient predominance in numbers or influence to be *the Church.* The Upper Canada Legislature repeatedly desired to have no such Church; and they prayed—as they had a right to do—that the Clergy Reserves should be appropriated to secular education.

By the late division of the proceeds of Clergy Reserves among different religious denominations, the principle has been established in Canada as regards state support—not that there should be no Church, but that there should be many Churches; and as regards any exclusive privilege or monopoly of civil advantages, we have not, thank Heaven! in Canada, a vestige of a dominant Church, except in the University of King's College.

As all Church endowment from national funds is for the religious instruction of the community—however their faith or doctrine may change or vary—so is all public endowment for educational purposes liable to be modified for the benefit

of the people to be instructed and as an endowment made in Romish times was not one necessarily attached to the Roman Catholic faith, neither is a public endowment for educational purposes—supposing even that it had originally provided for religious instruction in a particular faith—a grant to the professors of that faith, but a grant for a public purpose which must be liable to modification so as to serve the end for which it was originally appropriated

The University of Oxford once taught the Roman Catholic faith: it is now the chief source of religious education for a Protestant Church Could this have been so with any regard to justice had the endowment been held to be Roman Catholic, and not national?

The late Clergy Reserve Act is based upon the principle not merely of religious toleration—but of perfect religious equality Whatever inequality may exist in the distribution of the funds, the principle is preserved in all its integrity We look upon the passing of that Act as a great event in the establishment of religious freedom, not the less valuable because it was not accomplished through blood and violence, but there yet remains after the wreck of Church predominancy—the wretched attempt of the Council of King's College to invest the Episcopal Church with the attributes of an exclusive education at the public expense—and when that Institution is made *public*, and sacred for public purposes, and not a nest in which a Clergy can hatch their schemes of Church predominancy—Canada then, and not till then will have religious freedom with absolute religious equality

But in the settlement of what the character of King's College should finally be, this strange anomaly exists King's College *de jure* is unconditionally an establishment for the education of the Canadian people *De facto* it is an exclusive institution for the education of a mere section professing the doctrines of the Church of England Abstractedly the principle of religious equality has been determined by the law—while practically religious predominancy has been imposed by the Council The obvious conclusion is—not that the principle established by the Legislature should be changed—but that the parties who have inverted the law and insulted its majesty should be superseded The remedy is one which the laws even without legislative aid, daily applies towards those who have betrayed their trust and frustrated its purposes In this case the principal object of Parliamentary interference will be to restore public confidence in an Institution whose purposes have been scandalously perverted by its Trustees.

CHAPTER V

THE ORIGINAL COUNCIL.

The original Charter ordained that the Corporation called or known by the name of "the College Council" should consist of "the Chancellor and President of the College for the time being and of 'seven of the Professors in Arts and

Faculties,' and in order to provide for the management of the University by the formation of a Council previous to the appointment of Professors, power was given to the Chancellor "to appoint seven discreet and proper persons resident within our said Province of Upper Canada, to constitute jointly with him the said Chancellor and President of our said College, for the time being, the first or original Council." It was also declared that such persons should vacate their seats at the Council Board immediately on the Professors being appointed.

The proceedings of the Council under the original Charter, so far as connected with the public history of the University, have been incidentally noticed in the preceding chapters. To the members of that body are to be traced all the obstacles which were thrown in the way of the Parliament and the people in their long and arduous struggle for equality of rights in the University as a national School of learning and science. Compelled at length to submit to a partial modification of their exclusive system the Council directed all the energy and influence of which they were possessed to defeat the intentions of the legislature in opening the institution to the various religious denominations in the Province, and to place it permanently under an exclusively Episcopal management. The Amended Charter did not in any respect alter the mode in which the Council was to be constituted but it restricted the number of Professors who were to have a seat at the Board to 'the five senior Professors of Arts and Faculties," and extended the number of the whole Council to twelve—the Speakers of the Houses of Parliament, the Attorney and Solicitor General, and the Principal of Upper Canada College being members *ex officiis*.

The design of the High Church party to defeat the principle of the Amended Charter was not long suffered to lie dormant. Within a few weeks after the Royal Assent to the modifications of the Charter had been obtained, Dr Strachan announced to the Council another of his invaluable "schemes" for making the University subservient at once to the interests of the Episcopal Church, and to an enlargement of his personal and pecuniary advantages. The new proposition, which he submitted to the Council on 26th April, 1837, affords a curious specimen of the consummate art with which he attempted to ingraft his personal influence on the subordinate departments of the institution, so as to render his authority co-extensive with its most minute details. In other respects it presents a no less happy illustration of the confidence with which this "Universal Doctor' was inspired in his own pre-eminent qualifications as a public teacher. After a passing tribute to the High Church University of King's College, London, he thus proceeded to place his intellectual resources at the disposal of his country:

"Besides general superintendance, it is proposed to make the services of the President available for the Professorship of Moral and Intellectual Philosophy, with Christian Ethics and Political Economy. It will likewise be his duty to instruct such Students as belong to the Establishment in Christian Theology."

It might be no easy matter to determine the precise amount of loss sustained by the youth of Canada in being deprived of the services of Dr Strachan as an Academical Encyclopedia—but we have at least the guarantee of Dr Strachan's

modest assurance that the faculty of discoursing on such abstruse subjects as Moral and Intellectual Philosophy, Political Economy, Christian Ethics and Christian Theology, may be acquired in a less intellectual atmosphere than within the walls of an University, For at what fair-famed Academy did this "Universal Doctor,"

"Qui tria, qui septem, qui nunc scibile novit,"

complete the cycle of universal study? Truly we may felicitate ourselves on the wonderful achievements of the Clergy since the times of an early English Monarch who was wont to complain that not a single priest south of the Thames, and very few on the north, could read either Latin or English But our admiration of Dr Strachan's innate excellencies rises into adoration when he informs us that "the labor will not be so great as on a slight view might be anticipated," and that he does not intend to confine his services to the finest discovery of those illimitable stores of learning which would have delighted and instructed remote posterity, but that he will also generously undertake the *task* of selecting the Professors for the various departments of Art and Science which excessive diffidence alone prevented him from pre-occupying In this latter instance of his enterprise it may have been that the bright forms of Crosier and Chaplains floated before the prophetic vision of this learned Doctor, and that he was slightly influenced by the consideration that another visit to England at the public expense might place within his grasp the objects of his devout solicitude—but apart from such motives of piety, it was highly proper that his learned colleagues and fellow labourers in the Council and in the College should be men untainted by the heterodoxy in politics and religion which was evidently diffusing itself over the Province of Canada. He, therefore, proceeds in the developement of his scheme:

"So soon as matters are in a proper train, it is submitted that the President be authorised to proceed to England, to select the Library, Apparatus, &c., *likewise to assist in choosing such efficient professors* AS ARE CALCULATED TO LIVE IN THE CLIMATE."

How interesting is the worthy Doctor's anxiety for the physical qualifications of the professors! Not a word escapes him of their due instruction in the Thirty nine Articles and the doctrine of passive obedience Every orthodox consideration is merged in a parental solicitude for long life, and we are naturally led to anticipate proposals for Policies of Assurance or at least the sanatory recommendation of a frequent and careful perusal of Sir John Sinclair's invaluable Code of Health. It is doubtless a malicious exercise of ingenuity to trace under this specious proposition, a well planned design for inverting the fetters of an Episcopal ascendancy on the University For although the modifications effected by the Legislature were intended to deprive the Institution of the Episcopal restrictions imposed on it by the Original Charter, yet it was sufficiently obvious that if Dr Strachan could succeed in filling the Council Board and the Professors' chairs with individuals hostile to the rights of the other Christian denominations and sufficiently subservient to his own authority the intentions of the Legislature might be clandestinely frustrated, and the University would speedily resume its

original character The very absurdity of its pretensions, however, destined the scheme to defeat A copy of the detailed proposition found its way into the public prints, and so agitated the country with merriment that Dr Strachan found it convenient to restrict his pretensions to the Chair of Theology

The "scheme" was only abandoned to be re produced in another shape Dr Strachan's ambition was at length gratified with the object of his devout aspirations The high dignity to which he had attained, as Episcopal Bishop of Toronto, was incompatible with the humbler duties of a Professor's Chair but it became necessary, in such circumstances, to maintain, in the University, the unbroken chain of Episcopal succession

The Original Charter ordained that "the Reverend John Strachan, Doctor in Divinity, Archdeacon of York," should be "the first President of our said College,' and that the President should be *ex-officio* a member of the Council It does not contemplate the exercise of any extraordinary power on the part of the President beyond that of any other member, further than the right of presiding at the meetings of the University, and exercising the usual functions of a Chairman. His other duties necessarily begin and end in the Council, and his authority in the University extends simply to matters as to which the Council may give him a special delegation As a recompense for these common duties as a Trustee in the management of the property, he had contrived to appropriate for about twelve years the annual salary of £250 sterling, which was regularly paid until Sir George Arthur put a stop to this disgraceful misapplication of the funds. In consequence of this untoward circumstance, Dr Strachan s zeal for the University appears to have experienced some abatement, but it was scarcely to be expected that he would relinquish the influence which he had so long exercised without making a violent effort to secure an identity of interest and disposition in his successor

The political changes to which the Province was soon afterwards subjected, afforded ample opportunity for putting in operation the new series of intrigues which we are now to place before the public The active interference of the successive Chancellors, Sir George Arthur and Lord Sydenham, had some effect in placing the financial affairs of the University on an improved basis, but the general system and the character of the Council remained unchanged, and, at length, the removal of the Seat of Government from Toronto, by depriving the Council of the only members from whom enlarged views were likely to emanate, left the University entirely in the hands of an Ecclesiastical Compart, whose extravagant and unscrupulous conduct has brought it to the verge of ruin

In anticipation of the University being speedily opened for the purposes of instruction, it became an object of paramount importance in the Council to make arrangements for the change in its constitution consequent on the appointment of Professors. The Charter distinctly recognised an order of precedence among the Professors, and imposed certain duties upon "the Senior Professor," which gave him rank and importance next to the President. In the arrangements for

carrying the University into operation, a Professorship of Theology was determined on, in direct opposition to the Amended Charter; and following the example of the older Universities, the Chair of Theology received the precedence in a statute approved by the Chancellor, and passed by the Council. So long as Dr. Strachan's claim to this Chair was preferred, this arrangement was, of course, satisfactory to the parties by whom it had been planned; but, on the abandonment of that claim, it appeared to the Council to be expedient—while any uncertainty as to the individual who might receive the appointment existed—to defeat the provisions of the Charter by a Council Statute better adapted to their sinister purposes. Accordingly, favoured by the changes in the Head of the Government, the Council framed a new Statute by which they determined the seniority of the Professors on the principle of retaining in the Second Council the individuals who had been most prominent for their bigotry and High Church zeal in the Original Council; and thus ultimately succeeded in placing the University at the most critical period of its existence—the commencement of its public operations—in the hands of parties who had never relinquished the intention of converting it into an Episcopal College.

The new statute of the Council brought into existence an office unprecedented in any Academic Institution in Europe. By concentrating an unlimited discretionary power in one individual known to be favorable to their designs, provision was made for carrying out the schemes of the High Church Party, without the solemnity of Statutes, which if dilberal, might have received opposition either from the Chancellor or the future Council. To guard against such a contingency the new office of "Vice President," was created by a Council Statute—framed by a well disposed Committee, of which the very individual for whose exclusive benefit it was created was Chairman. The statute received the ready approval of his spiritual colleagues, and it swelled the brilliant series of retrospective "preferments," to which Dr. McCaul may have subsequently alluded in his brief for a learned Counsel, by saddling the University with an annual burden of £250 sterling—which it has been the means of conferring on Dr McCaul, in addition to the ample endowments he derives as one of the best paid Professors in the University. The intention of the Statute obviously was to supersede the necessity of a discretionary Council, and by placing in the hands of Dr McCaul, already notorious in the Province as a violent and bigotted High Church partizan, the entire direction of the Institution, to reduce the Council itself to a nullity, or at the best, a mere instrument for the gratification of his unbounded passion for power. The office itself was not only repugnant to the spirit as well as the letter of the Charter, but the powers and duties concentrated in the individual whom the statute contemplated were directly at variance with the acknowledged principles of law by which the functions of Trustees are regulated.

It will be afterwards a matter of some interest to enquire what were the nature and extent of Dr McCaul's proceedings under this appointment. At present it is merely referred to in reference to its gross illegality. Not only is no such officer contemplated by the Charter, but direct reference is made to the person

who shall rank next to the President of the University, and who shall be entitled, in absence of the President to perform his duties,—namely, "the senior member of the said Council present," and the precedence of this senior member is again significantly referred to in a subsequent part of the Charter in which the Chancellor is enjoined "to consult with the President of our said College, and the next *senior member of the said College Council*, respecting all statutes, rules and ordinances to be proposed by him to the said Council for their consideration" And the Charter further declared, that "*the seniority of the members of the said Council, other than the Chancellor and President, should be regulated according to the date of their respective appointments*" Under these provisions it was competent for the Council to have appointed Dr McCaul a dean or proctor of the University—although the policy of conferring such office on one of the Professors might have been questionable, but in either of these offices his duties would have been strictly ministerial: he would have been the servant of the Council, not its dictators and his genius would have been applied to purposes for which it was evidently intended—the enforcing a discipline which others more qualified had projected. But it was obviously *ultra vires* of the Council to infringe the rights of "the senior member," by the appointment of an officer who should not only supersede him as one of the advisers of the Chancellor, and take precedence of him in the Council where his position was accurately determined by the Charter, but who should possess powers co-extensive with those of the Council itself *

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* It is a well recognized principle in Equity, that the office of Trustee being one of personal confidence it can in no case be delegated to another. The existence of a discretionary trust is at variance with a delegation of its exercise on to a stranger who could only be made responsible for ministerial acts. And it makes no difference that the individual to whose instrumentality its execution is entrusted is a co-Trustee. The authorized Trustees are not only personally answerable for all the mischievous consequences of the delegation but all the acts of the substitute which are of a discretionary character are *actually void*. It is unknown that under Dr McCaul's disastrous management, the University incurred liabilities to an extent and of a character far transcending the most profligate periods of the administration of the University affairs. Valuable lands were recklessly disposed of to meet the pressing exigencies caused by his frivolous and puerile extravagance and misapplication of the trust property, and at this moment the University is struggling with pecuniary difficulties which have already considerably impaired its efficiency, and actually threaten its solvency unless immediately relieved by the sale of a large portion of the endowment. An attempt is indeed being made to prevent a public exposure by disposing of the University Lands, but as the College Council has no authority under the Charter to effect any such sales, as hazardous a speculation will scarcely tempt purchasers whose rights will in all probability be defeated in a Court of Equity.

If the Statute itself was illegal of *mala* the manner in which the powers under it have been executed has placed it far beyond the pale either of law or of reason Were the subject not associated with too grave considerations it would move to tears of laughter to describe how

> "Vaulting ambition hath o'erleaped itself"

and to witness the misapplication of talents which might have made a pedagogue respectable but which were unhappily never designed by nature for the higher duties of government in a University. The subject will however, merit due consideration, when the educational operations of the Institution fall to be detailed.

It is certain that the appointment was considered to be illegal by the Law Officers of the Crown—and that such is its effect will be sufficiently obvious from a summary of the discretionary powers with which the Statute has invested this anomalous officer. The statute proceeds on the preamble that the residence of the President within the precincts of the University and his personal superintendance of its internal affairs are incompatible with the discharge of his ecclesiastical duties. It therefore declares that there shall, during the Presidency of the Bishop of Toronto, be a Vice-President, who *shall be one of the Professors, and who shall have precedency and seniority next to the President*: that the Vice-President shall reside within the precincts of the University: that he shall preside at all meetings of the Convocation in absence of the Chancellor and President: that it shall be his duty to examine Students previous to matriculation, to *maintain observance of the Statutes by the Professors*, Scholars, and all other members of the University—to enforce such observances and discipline by *admonitions and punishments*—to be the parent and guardian of the Students, to direct them in their studies—to promote by all means in his power their progress in religion and learning—preside over College exercises—regulate inferior officers and servants—*and inspect all the affairs of the College not appertaining to the Bursar's office.**

The creation of the office of "Vice-President" irrespective of its own merits, assumes an importance in the History of the University, from the circumstances which followed the appointment. It brought the rights of the respective Professors into collision by involving the order of precedence in doubt, which was only set at rest after considerable delay, by the interposition of the authority of the Chancellor, into whose hands the Professors deemed it necessary to surrender their appointments. The authority of the Council was thus, for a time, placed in abeyance, and during an interregnum of several months the favourable opportunity was seized by the Vice-President of gratifying his unsatiable pass on for frivolous display and extravagance, with the zest to his disastrous Administration that it was uncontrolled by any thing like personal responsibility. The absence of responsibility during the abeyance of the Council affords, indeed, a striking argument for the illegality of the office. It would be monstrous to suppose that the guardians of a public trust could at any time throw off their responsibility to the public by not only delegating the powers vested exclusively in themselves to the instrumentality of an irresponsible officer—but actually bequeathing these powers which could only be exercised—if they could be legally exercised by delegation at all—during the existence of the original Trustees.—And yet to whom was the Vice-President responsible? Not, certainly, to the old Council, whose existence was no longer recognized by the Charter, and, assuredly, not to the new Council, for he could possess no authority from them till his appointment had been confirmed. And yet during the interregnum, this officer usurped powers of administration as ample as the first Council ever affected to possess, and signalised the period of

* By another Statute of the Council, this important concerns of the Bursar's office were confided to the parental care of the Bishop of Toronto.

his usurpation by a daring violation of the provisions of the Legislative enactment under which the University went into operation, by gross misapplication of the funds of the Institution, and by the introduction of a discipline alike repugnant to the feelings of the community and disastrous to the interests of the University

CHAPTER VI

THE OPENING OF THE UNIVERSITY

In June, 1843, under the Administration of the "Vice President," the University was opened for the purposes of Education It is important to observe that this step was taken while the authority of the College Council was in abeyance, and before a single statute had been passed for regulating and enforcing the government and discipline of the Institution All the preparatory arrangements seem to have been made under the discretionary authority of Dr McCaul, as Vice-President; and as the same unlimited power extended over the whole of the first term, his action may very justly be associated with the singular details which have given to the University its present tone and character

The Council now felt themselves in a position to offer open violence to the principles of the Amended Charter Every effort was studiously made to impress the public mind at the outset with their determination to defeat the intentions of the Legislature by imposing an Episcopal character upon the Institution Under no authority from the Charter, but in flagrant violation of its spirit, a Theological Chair had been established, from which the doctrines of the Church of England were to be taught, by a Professor selected from the University of Oxford—the fountain of orthodox illiberality and prejudice With one exception, the Professors had been all taken from the bosom of the Episcopal Church,—a circumstance in no respect detracting from their qualifications, but the result of something more than accident, and certainly calculated to have a material influence on an institution, which, in other respects, has been so carefully moulded to Episcopal prejudices A chapel had been fitted up at great expense for the exclusive accommodation of the Episcopal members, in which every student was compelled, unless favoured by the dispensation of the Vice President, to worship daily according to the ritual of the Church of England In the most minute details of dress and discipline, the Universities of Oxford and Cambridge, which have been so long distinguished for violent hostility to the Dissenters, were imitated with a precision abundantly significant of the spirit in which the University of King's College was to be governed The frivolous taste of the Vice-President was amply gratified with the melo-dramatic effect of caps, gowns, hoods, surplices gilded maces and baubles. Utterly destitute of that comprehensive grasp of intellect which would have seized upon and incorporated those higher and nobler features

which have rendered the ancient Universities of England venerable in spite of their corruptions his genius seemed to soar no higher than the mere *tailoring* department, in all the frivolities of which it revelled as if under the influence of a miserable monomania, and of a silly anticipation that those venerable absurdities which had grown up on the banks of Isis and Cam, would impose upon the people of Canada, and would compensate for the absence of all that was solid and useful, and adapted to the position of the country and to the genius and wants of the people.* Undismayed by an Exchequer impoverished by its own

* We acknowledge a high respect for the Academic Institutions of England, but none for the corruptions under which they labour. Nor has all the frothy declamation of the Vice President convinced us that England owes much of her renown to the system upon which these exclusive Establishments are conducted. It would be as absurd to attribute the greatness of English literature to the course of Academic instructions at the Universities as it would be to trace the greatness of England's commercial prosperity to the restrictions upon her trade. It is not, however, against the Institutions themselves that we are inclined to inveigh, but against the abuses which are there permitted to flourish in exuberant rampancy. If we have formed an unjust estimate of their merits, we have at least the satisfaction of erring in company with the greatest names of which English literature has to boast. Bacon spoke of their constitution with reprobation. Milton condemned their injurious influence in retarding the expansion of the mind. Dryden regretted the time which they had caused him to misspend. Clarendon felicitated himself on his escape from them. Swift, Gray and Gibbon assailed them with the keenest shafts of their raillery—and Jamus described them as a "peaceful scene of slumber and thoughtless melancholy." It would be easy indeed to establish, by the testimony of a series of the most gifted minds which England ever produced, that at no period of their history have these ancient Universities been free from gross corruptions and defects; and we take advantage of a note to quote a few of the authorities immediately at hand, and from whom a more favourable representation might have been expected, if truth could have been sacrificed for the sake of interest and inclination.

"In the Universities they learn nothing but to believe; first to believe that others know that which they know not; and often, themselves know that which they know not. They are like a becalmed ship; they never move but by the wind of other men's breath; and have no oars of their own to steer withal."—*Bacon's Tract on Proue of Knowledge.*

"In the Universities, all things are found opposite to the advancement of the sciences; for the readings and exercises are here so managed that it cannot easily come into any one's mind to think of things out of the common road; or if, here and there, one should venture to use a liberty of judging, he can only impose the task upon himself, without obtaining assistance from his fellows; and if he could dispense with this, he will still find his industry and resolution a great hindrance to his fortune. For the studies of men in such places are confined, and pinned down to the writings of certain authors; from which, if any man happens to differ, he is presently reprehended as a disturber and innovator."—*Novum Organum—Ax. 90, lib. 1.*

"Such are the errors, such the fruits of misspending our prime youth at the Universities, as we do, and that in learning mere words; as such things chiefly as were better unlearned."—*Milton's Tract on Education.*

"The two wells of learning, Oxford and Cambridge, are dried up, students decayed, of which scarce an hundred are left of a thousand; and if in seven years more they should decay so fast, there would be almost none at all; so that the devil would make a triumph, whilst there were none learned to whom to commit the flock."—*Dr Bernard Gilpin's Sermons preached at Court.*

"The Universities Oxford especially, have been unhappily successful in corrupting the principles of those who were sent to be bred at them; so that few of them escaped the taint of it, and the generality of the Clergy were not only ill-principled, but ill-

reckless extravagance, a crowd of lacquey'd officials was employed to swell his personal pomp,—as if to prove that an endowment for the public benefit was to be administered as if nothing more was to be considered than the private gratification of its Trustees.*

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tempered they excited against all moderation as endangering the Church; though it is visible, that the Church is in no sort of danger from either the members or the interest that the dissenters have among us; which, by reason of the toleration, is now so quieted that nothing can keep up any heat in those matters but the folly and bad humour that the Clergy are possessed with, and which they infuse into all those with whom they have credit." "In those seats of education, instead of being formed to love their country and constitution, the laws and liberties of it, they are rather disposed to love arbitrary government, and to become slaves to absolute monarchy; a change of interest, provocation or some other consideration, may set them right again as to the public; but they have no inward principle of love to their country and of public liberty; so that they are easily brought to like slavery, if they may be the tools for managing it."—*Bishop Burnet's Hist.*

"Let him who is fond of indulging in a dream-like existence go to Oxford, and stay there; let him study this magnificent spectacle, the same under all aspects, with its mental twilight tempering the glare of noon tide or mellowing the shadowy moonlight; let him wander in her sylvan cubinhs or linger in her cloistered walks; but let him not catch the din of scholars or teachers or dine or sup with them or speak a word in any of the privileged tenements; for if he does, the spell will be broken, the poetry and the intrigue gone, and the place of his enchantment will melt from his embraces into thin air." What has been the result of the system of education pursued at the Universities? During the last two centuries one class of statesmen has resisted all improvement, and their opponents have been burned into intemperate alterations; whilst philosophy, lamenting these contentions has instead of advancing the science of government, been occupied in commenting laws founded upon erroneous principles erroneous commercial laws erroneous laws against civil and religious liberty, and erroneous criminal laws."—*Montague's Life of Bacon.*

"Founded by priestcraft, closely linked with its professors in the earliest times, and always in the hands of the ruling powers of the Church, the Universities have in every age been most exclusively appropriated to the education and usages of the Establishment and its members. The most rigorous compliance with its doctrines has always been exacted; the strictest exclusion of all Dissenters from it has uniformly been practised. As long as Popery was the religion of the State, the Universities were rigidly Catholic; and indeed their endowments, in by far the greater part, proceeded from the bounty and piety of Romanists, and were given for the propagation of the Romish faith, and the inculcation of the Romish discipline. When the State threw off its allegiance to the Pope, and became Protestant, the Universities followed, and piously directed all the donations and bequests of their Catholic founders to the destruction of the Catholic religion, embracing the reformed faith, with the intolerance of their old profession, and transferring to Dissenters the hatred which they had formerly borne to the doctrine and discipline of Protestants. But this hatred was very cordial, if not very consistent; and no participation in their endowments could ever be hoped for by any one who was not prepared to avow an implicit belief in the dogmas of the Church, and testify it by an outward observance of her ritual every day, as well as by occasional declarations and signatures of a more solemn kind."—*Edin. Rev.* Aug. 1825.

"One fortnight," observes Dr Pusey, "comprises the beginning and end of all the public instruction which any candidate for Holy Orders is required to attend, previously to entering upon his profession."

"The University of Oxford," Professor Sewell confesses "is not an enlightened body—we (its members) have little liberality in religion, and we study logic in a very humble way."

* It is a deplorable fact that the number of salaried Officers in King's College nearly equals that of the Students who have matriculated during the three first terms

The gross and crude attempt to establish the Collegial residence and discipline in all those unimpaired deformities which have caused the eminence of Cambridge to alternate in fearful oscillation between a School of Learning and an Encouragement of Licentiousness, showed how little the Vice-President knew or understood the history and character of those Institutions upon whose mechanism he seems to have gazed with a sort of savage bewilderment without being able to comprehend any one of the principles upon which it had been set in motion or kept in operation. Under his administration, the first of a series of Monastic Establishments has been completed at a ruinous sacrifice of the endowment, with no other apparent object than that of giving the University the paltry monopoly of the board and lodging of a handful of Students.

It is, indeed, an undeniable fact, that such establishments, formed on the Monkish model, are to be found at Oxford and Cambridge, but it is no less true that they have been the principal causes of the immorality which prevails to an alarming extent at these famous Schools, and they are now only tolerated as part of an ancient system,—the necessities under which they were instituted having long ceased to exist. In early times, the English Universities were not merely national, but were, in every sense, cosmopolite Institutions. During the middle ages, Students flocked to them as the Schools of eminent teachers, from every country in Europe. The vast concourse of Students occasioned a scarcity of lodgings and exorbitant demands for rent in the towns where they were established, and a serious difficulty was thus created to the poorer classes of Students, whose means were unable to meet the demands which the increasing celebrity of the Schools occasioned. The benevolence of individuals was stimulated to relieve the Students of a burden which many of them could ill afford to bear, by providing them with free lodging during the progress of their studies; and the domestication of the Students consequently became a prominent part of the system. Some of the Colleges had, indeed, been founded solely for the support of indigent Scholars, but the practice of domestication has been, in a great measure, perpetuated at Oxford and Cambridge by the illegal monopoly which the private Colleges have usurped over the national Universities. In every other country in Europe the system of domestication has been gradually, but certainly, relinquished as altogether unsuitable to the character and not required by the necessities of the times. The University buildings present nothing more than an aggregation of class-rooms in which the proper business of the University is conducted with reference to the public benefit, and not as Normal Schools for the training of Vice-Presidents, at the public expense. It was reserved, however, for Canada to lead the way in a revival of those Monkish features of the ancient Universities, as if the more sincerely to evince the Puseyite tendencies of her population by the adoption of a system to which she was constrained neither by her necessities nor her interests.*

* The origin of the Collegial system was almost contemporaneous with the establishment of the ancient Universities, and was adopted from the University of Paris, which was the model upon which the English and most of the Continental Universities

It is with the *morale* of the system upon which the College Council are proceeding that we have at present to do. Their eccentric taste for architectural embellishments and economical arrangement, and the adaptation of their means to the end proposed, will be more appropriately discussed in the subsequent Chapter. But surely the people of Canada do not require to be warned against the fearful demoralization and licentiousness, which the system of domestication will inevitably introduce. We dare not stain our pages by more than a bare reference to those immoral practices, which notwithstanding the vigilance of an extensive police, prevail to an alarming extent at Oxford and Cambridge. The truth of the charges which have been frequently made against these Institutions has been lately established in the British Parliament by revelations from the personal experience of some of its most distinguished members. The hopeless insubordination that has hitherto attended Dr McCaul's administration will scarcely afford a guarantee for purity of morals at King's College under the monastic system, and under an enlarged sphere of action. Nor can any plea of necessity be adduced for so hazardous an experiment in a city where there exists sufficient competition among Boarding Establishments and ample accommodation for the largest influx of Students that could be anticipated, even were the University to accomplish the purposes for which it has been established by law.

The only argument to which any weight can be attached for retaining the system of domestication in the English Universities is, singularly enough, the only one which the Trustees of King's College seem to have despised—namely, the opportunities which it has afforded to indigent scholars of a complete course of academic instruction. To the honour of England it should be acknowledged, that she has offered facilities to persons from the very humblest walks in life for rendering themselves masters of all the knowledge that it was in the power of the most learned Professors to bestow, and it is a pleasing reflection that some of the greatest names which have adorned her Universities thus owe their greatness to her bounty. But to the ineffable disgrace of Canada, a noble endowment, which was calculated to afford to its youth a liberal education, adapted to the necessities of a young country, has been so littered down and wasted by wilful extravagance, misapplication, and a base thirst for personal aggrandizement, that at the present moment she has not wherewithal to educate a free scholar at her University.

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were formed. In Germany, the Collegial Establishments never obtained a decided predominance over the functions of the Universities. In the older Universities of the Empire, the system of Conventual Establishments only extended to the habitation, nurture, and superintendence of the youth, and such institutions were no where called into existence after the commencement of the sixteenth century. Prague, Vienna, Heidelberg, Cologne, Leipsic, and a few others, all possessed in early times, such establishments; but since the revival of Letters they have been unable to maintain any importance. In England, where they have long usurped the functions of the Universities, the Colleges have owed their stability to their immense wealth. The narrow system of tutorial instruction has accordingly predominated, and has tended, in a remarkable degree, to impair the efficiency of the Universities. This is no vague charge against these Institutions, but has been long a matter of complaint by their warmest admirers.

It would be unnecessary to waste argument on the system of general domestication, when the designs of its projectors are obnoxious to a more aggravated charge than that of imbecility. The attempt is subservient to the great scheme which the Council have cherished with undying affection,—to convert the University, by the instrumentality of domestic superintendence, into a nursery of High Church prejudice and intolerance. And in pursuance of this design, another purpose favourable to the same object will be effected. The buildings necessary for the proposed domestic accommodation, and which can never be adapted to any other purpose, will make such an inroad on the endowment as will effectually silence all demands for a participation in its benefits by the other Christian sects. The modification of the system which has been introduced until the monastic arrangements have been completed, has proved its perfect adaptation to the purposes intended. The aggregate fees of the Students during the first and second terms have been found just sufficient to cover the expense of their dinners; but the practice has afforded an admirable opportunity for introducing those venerable High Church toasts which lend their potent qualities to the small beer with which the Students are regaled on these festive occasions. The Vice-President, unwilling to put a stop to such virtuous ebullitions of youthful orthodoxy, has with much liberality granted dispensations to such of the Students as have interposed their prejudices to the general current of orthodox sentiment.

It was an ominous circumstance that the first step which was publicly taken in opening the University, should have been chargeable with gross and reprehensible deception. The Students were called upon to subscribe a declaration of obedience to the Statutes, Rules and Ordinances, framed under the provisions of the charter, and the Vice-President gave the sanction of his authority to this solemn mockery, under the full consciousness that not a single Statute had been passed by the Council which could in any respect affect the discipline of the institution. The Charter had indeed ordained that the discipline and government of the University should be enforced through the operation of Statutes; but as the Council had determined that the Charter should only take effect in so far as it favoured their sinister designs, they foresaw that they could outrage the law with more perfect impunity by transferring the government to an irresponsible officer than by placing that officer under the operation of illegal statutes, on the evidence of which they might have been brought to punishment for a betrayal of their trust.

The design of subverting the law by a secret evasion of the provisions of the charter was incautiously but strikingly disclosed in the Inaugural Address of the President, whose literary predilections have so frequently proved disastrous to the "schemes" of his party. He alluded to the principles of the original charter in terms expressive of the value he attached to his own exertions in behalf of the Episcopal Church. He characterised it as "the most liberal that could be framed on constitutional principles,"—and denounced those who had struggled for equality of rights, and whose claims had received the sanction of a parliamentary modification of its exclusive provisions, as "turbulent spirits," who "had taken much pains by calumnies and misrepresentations to poison the minds of the people

against the charter." He referred in terms of warm admiration to the resistance which the College Council had uniformly made to "the anchristian intrigues and dissensions" by which their designs had at length been frustrated. The London University, to which in some respects the Amended Charter had assimilated the University of King's College, he denounced as "an infidel attempt which had signally failed, as all such godless imitations of Babel ever must." "The same considerations," he observed, "also convince me that had the University been permitted to proceed under the Royal Charter without alteration, it would have been far more efficient for all the purposes intended, than in its present form." And he defended a recurrence to the original system on the ground that the Episcopalians were now entitled to an exclusive University, inasmuch as the other sects had recently evinced their exclusive predelections by the establishment of Colleges adapted to the principles which they severally professed.

In such language did the highest Episcopal Dignitary in the Province and the Chief Executive Officer of the University, denounce the law under which the Institution had gone into operation, and daringly advocate its violation before the youth who had assembled under the anticipation of receiving that "complete and generous education which fits a man to perform justly, skilfully, and magnanimously all the offices, both public and private, of peace and war"[a]. Was it to be expected that the law would be honestly acted on when its execution was left in the hands of one who had thus openly avowed himself an enemy to its spirit and principles,—and who had resolved, within the limited sphere to which he had at last been driven, to re-enact the deeds which had for so many years impeded the progress of the country, and the moral and social advancement of its population? Was it to be tolerated that the same individual who had raised himself to the dignity which he then enjoyed by a long course of indirect persecution, and by resisting and trampling on the civil and religious rights of his fellow subjects, who had, by the "leprous distillment" of calumny and misrepresentation poisoned the ear of his Sovereign in regard to the loyalty of his countrymen, who had lived and battened on secret insinuations and charges of disaffection, should commence the public discharge of his duties in a national University by inculcating on the assembled youth disrespect and hatred of tha law, and by avowing his determination to subvert its authority. If privileged insolence may thus claim protection in the possession of irresponsible power yielded by the slavish subserviency of his satellites, the law has been robbed of that majesty which gives it its highest claim to obedience.

The spirit in which the University was opened has already exhibited the fruits which it was so well calculated to produce. The absence of Statutes for regulating and enforcing a proper discipline has given an immunity to insubordination which has been quickly appreciated by the students, and has at length made the institution an object of unqualified scorn and derision. There is not a student within the walls who is not well aware that no Statute exists under which he can be legally

[a] Milton.

punished for breach of discipline. It may flatter the vanity of the Vice President to assume the affected power of issuing "dispensations," "inhibitions," and "restrictions," but every youth is aware that neither legal indulgence nor legal punishment is conveyed by these empty words—and that until Statutes have been passed for regulating the studies preparatory for degrees the arbitrary inflictions of the Vice President cannot affect his claims to University honors. The absolute failure of the series of miserable expedients by which the Vice-President has attempted to establish an exclusive personal authority ought to have convinced him, if his previous experience was insufficient, that an University must be governed on some settled principle, and not by the whims of a capricious tamper. The impotent attempt to sacrifice the legal authority of the College Council to an inordinate passion for personal power has met with the fate which it merited, and would be a source of gratification, if its disastrous influence on the character of the University did not excite the most anxious apprehensions.

The Medical School,—in many respects the most important department of the University in the present position of the country,—has experienced to an alarming extent the effects of this mismanagement. In a country where the opportunities of acquiring Medical skill are so limited, it might have been expected that every means should have been adopted to render the education of practitioners easily accessible, and that in this department at least public necessity would have prevailed over senseless bigotry. But here also has the fatal influence of the Vice President extended to blight the prospects of the country by an ignorant interference with the duties of the Medical Professors, and by the application of his exclusive principles to a department whose free operation would have conferred immediate and lasting benefit on the country.

Under the present arrangements the only real benefit which the public can derive from the establishment of the Medical School, is the admission of "Occasional Students"—who may attend the lectures of the various professors but will not be entitled to any of the honours. To entitle the Student to Medical honours he must, previous to his professional course, have taken a degree in the Faculty of Arts. The Medical Student may thus study at King's College—he may reach the exact point of receiving Medical honours with advantage to himself and to the community, and with credit to the University—but the *stamp* of ability and knowledge to which by his attainments he may be justly entitled, will be withheld—he must practice in a low and subordinate position, or he must expatriate himself for a time—he must go to a foreign land and ask from a foreign University that degree for which his literary and medical education may have eminently qualified him—that he may be on a level with his fellow students who have gone through the same professional course, but whose religious principles, or it may be their scruples, have not prevented from taking a degree at an Episcopal University *

* No part of the conduct of the Vice President has proved his incapacity for the position which he has assumed, so much as his ignorant and injudicious interference with the management of the Medical School; and as a necessary consequence no department of the University has suffered so materially in its interests. We shall have

The mismanagement of King's College affords a melancholy illustration of the disastrous policy of placing the administration of a law in the hands of parties who have an imaginary interest in subverting it. Had the spirit and intentions of the Amended Charter been fairly acted on—and had private interest not usurped the place of public duty, notwithstanding its very obvious defects—the Charter was sufficiently wide in principle to comprehend the advantages of a liberal education; but by its gross and fatal perversion a system has been introduced neither in harmony with the free principles which prevail in the country, nor consistent with the advantages of sound academic instruction. That dispensations from the rights and ceremonies of the Episcopal Church have been granted, is no answer to the charge of a recurrence to the original system—and of a betrayal of trust in imposing on the University an essentially Episcopal character. The very existence of dispensations is in itself at once an admission of this fact, and an assertion of superiority claimed in the University on behalf of the Church by which they are granted. Is not the granting of dispensations as a matter of favour an assertion that those who receive them are only entitled to the full privileges of the University by sufferance—and does not sufferance imply something of degradation?

But under what interpretation of the Amended Charter can any one Church claim an ascendancy in the University? If the Episcopal Church has a superior right, upon what possible grounds were the amendments made? The privileges of that church were already recognised by the original Charter—was the amended law, which was so strenuously resisted by the Council, necessary for their further security?

It has become sufficiently obvious, that before the University can fulfil the purposes for which it was intended, the parties who have grossly perverted the law and frustrated its intentions must be removed. The necessities of the country, the peace and prosperity of its inhabitants require that the majesty of the law

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occasion in another place, to advert to his repeated attempts to degrade the position of the medical professors—and to the gross breach of faith in which he was a party, in the reduction of their salaries below the sums promised by a former Chancellor. But we allude more particularly, at present, to the systematic opposition which he has given to the arrangements proposed by Dr. Widmer and others in whom the country would have gladly reposed its confidence. It was characteristic of the Vice-President that, in opening the Medical School, he should have taken occasion to offer vulgar insolence to Dr. Widmer and the medical professors, at a time when all parties were disgusted by his interference with matters regarding which he was profoundly ignorant. The failure of the Medical School has been the result.

If it be thought that we have prematurely attacked the system of exclusion before the Statutes have been passed we have only to say that we have proceeded on the universal understanding in the University, in regard to the admission of medical students. An application to the Board was made, at the commencement of the last term on behalf of the Presbyterian body to ascertain the conditions on which Presbyterian Students could be admitted to the privileges of the Medical School.—To this application an equivocal answer was returned, after consultation with the Vice-President, to the effect, that the Statutes would be published. The fact that these Statutes were not in existence was attempted to be concealed: but the fact is as they have not yet been passed proves the deplorable mismanagement under which the Institution is labouring, and by which its efficiency is impaired.

shall be vindicated by the signal punishment of the parties by whom it has been outraged. If conformity to the Episcopal Church were required by the law, there might be some reason for giving it an ascendancy in the University, as a national seminary of education. But when, on the contrary, the great majority of the inhabitants of this Province differ from that Church in doctrine, discipline and worship—when the other denominations are powerful in numbers, in influence, and in activity—embracing as they do nine-tenths of the enlightenment, the wealth and the stamina of the population—when there exists no difference in the civil rights, privileges and powers of the people on account of the religious opinions which they entertain—why should the same equality not exist in this seat of learning, by admitting all classes and denominations on the same principle of equality to a free enjoyment of its benefits in their studies, and afterwards to the reward and record of their merits in the attainment of its offices and honours. There is no monopoly of morals or good citizenship by any particular sect—why should civil privileges be confined to one denomination which only enjoys a share of the virtues that are equally diffused over all?

It is a bitter mockery to say that the various denominations of Christians are admitted *by sufferance* to enjoy the advantages of attending the lectures of learned Professors, in the prosecution of their professional education,—that *by sufferance* they may devote themselves to the acquisition of professional learning—that they may toil and labour in the prosecution of those studies which will fit them for attaining the honours that the University can bestow,—but, inasmuch as they will not submit to Episcopal discipline, they must look to the other Universities of America for conferring those titular distinctions which our own University withholds from native intelligence and learning, on account of conscientious convictions. Are the civil rights of the Canadian people thus to be gauged by the measure of their theological opinions? Are the creeds of our fellow subjects again to revive a system of negative persecution, and to be made a matter of punishment or reward? Is the great majority of the population to be placed under a sense of personal injury and to suffer a positive evil, by which they are to be retarded in the paths of professional life? Are honours fairly won to be refused on the ground of caste? Are the people to be exposed to the feeling that they are ill-treated by the laws of their country, and that they are precluded from the enjoyment of benefits which are open to others by the illegal regulations of an exclusive establishment? And, are all these practical injuries to be inflicted, not only without the sanction of positive law, but in flagrant and open violation of an express legislative enactment—by parties who, having signally failed in establishing a legal orthodoxy, seek to allure neophytes to Episcopacy by hiding the iron spirit of intolerance under the mask of dispensations and favours, which they will refuse to confer the instant they can discover that there is inability to demand? If the great purposes for which the University was established, have been thus grossly and unjustifiably perverted—if the law under which its Trustees were bound to act, has been thus scandalously violated—will it be said that there exists no power in the Constitution to bring the guilty parties to punishment, and to reclaim the Establishment from the errors of a disgraceful prostitution?

CHAPTER VII

ADMINISTRATION OF THE ESTATE

The Chancellor having returned their appointments to the Professors under such dates as fixed the order of precedence, the authority of the new Council was called into existence in October, 1843. Before adverting to the proceedings which have since taken place, it will be proper to give such a view of the administration of the Estate as can be obtained from the materials to which we have had access. The irregularities of the Bursar's office are not the only obstacles which exist to prevent a thorough understanding of the University affairs. A long course of maladministration has made the Council wary in furnishing details, and accordingly the Returns which have been made to Parliament are studiously mystified and defective. Sufficient materials may, however, be obtained to establish the character of King's College as the very Paradise of Jobs, even in a country where unscrupulous waste and misapplication of the public treasure have imposed scarcely any limits to cupidity and corruption.

The first general investigation which appears to have been made into the state of the University affairs, was instituted by Sir George Arthur, as Chancellor, in 1839. In the course of that year an accountant was appointed to examine the Bursar's Books, and to report on certain alleged irregularities to which the Chancellor's attention had been directed.

It appeared that the Bursar's accounts of receipts and expenditure had been made up from loose memoranda, at first monthly, and afterwards quarterly—that the accounts themselves consisted merely of abstracts, and that the abstracts constituted the only record of the management of the Estate. No care had been taken to test the accuracy of details by means of a balance sheet, and, in fact, no attempt had been made either to present the accounts in a detailed form, or to show the connection of income with expenditure. The books themselves had been kept on no sort of system, and no connection existed between one book and another. No rental had been kept, and no register of the tenants' leasehold lands existed. Where complaints had been made by parties who had not received credit for payments, arrangements unfavourable to the Estate had been frequently made in order to conceal the absence of system. In fact, every thing appeared to be in the most hopeless confusion, and evinced a degree of culpable negligence, which, but for the active interference of the Chancellor, would have speedily brought the Estate to ruin.

It further appeared that large sums had been withdrawn from the funds of the Institution, for the private accommodation of the President, at first without any authority from the Council, and without any security having been given at the time; that, afterwards, notes of hand by parties in no way connected with the University, and which had been given to the President in the course of a private transaction, were deposited by him with the Council in security of the loan. In connection

with this transaction and as throwing light upon the system of management which existed previous to the year 1840, a despatch from the Right Hon C Poulett Thomson to Lord John Russell is subjoined —

"GOVERNMENT HOUSE MONTREAL,

"2nd May 1840

"MY LORD —I observe by the papers that, on the 30th March last, Mr Pakington took occasion in the House of Commons, to ask your Lordship certain questions in regard to the Bishops of Montreal and Toronto With respect to the latter, he is reported to have said, that Dr Strachan had been deprived of his salary as President of King's College in consequence of his appointment as Bishop contrary to the agreement made with him when he accepted the Episcopal office, a proceeding which he described as cruel and unjust

"It is evident that if these expressions were used by Mr Pakington, it must have proceeded from his ignorance of the circumstances under which the salary of the President of King's College was discontinued I feel it, therefore, my duty to state those circumstances to your Lordship as I gathered them whilst in the Upper Province, as well as to bring to your notice some other matters relating to the connexion of the Bishop of Toronto with that establishment, which I had hitherto delayed doing, from a disinclination to enter upon transactions which I cannot consider creditable to the parties concerned

"Your Lordship is aware, that many years ago a Royal Charter was passed for the establishment of a University in Upper Canada, and that by that instrument the Archdeacon of York was appointed *ex officio* President

"From various causes which have, at different times, been fully reported to your Lordship's predecessors, the institution notwithstanding that it enjoyed a considerable endowment was not then, nor has it been since, brought into operation Nevertheless, officers were appointed, primarily for the management of the Estates, and salaries were assigned to them, a salary of £250 sterling was also attributed to the President At what period Dr Strachan first received this salary, I am unable, without reference to Upper Canada, to state but the records of the Colonial office will supply the deficiency From the enclosures however to Sir George Arthur's despatch to your Lordship, of the 8th June, 1839 you will perceive that, up to that date the Bishop had continued to draw it

"But in the course of last year an investigation having been instituted by Sir George Arthur into the management of King's College the fact that the President was annually drawing from its funds an income of £250 sterling was brought to his notice Considering that no duties of any kind beyond those of other unpaid members of the Council were attached to the office—that there was no immediate prospect that the Institution would be put into operation—and that every shilling taken from its revenues was so much deducted from the means of education in Upper Canada already most deficient it appeared to him impossible any longer to permit such an appropriation of its funds In this opinion I entirely concur, and I am confident that your Lordship will approve the course which Sir George Arthur adopted It is, indeed difficult to understand how the considerations by which he was actuated, should so long have escaped the notice of the Bishop himself

"But the enquiry into the state of King's College, and the production of some returns called for by the Assembly brought out other irregularities in the management of the Institution Thus it appeared that the accounts of the Bursar were very much in arrear and it became necessary therefore, to remove him and to appoint another officer in his place and it was also shown, that a very considerable

sum had been borrowed from the funds of the University by the President for his private purposes, on the security of various notes of hand, and that several of those notes had not been paid when due

"Upon my entering on the duties of Chancellor of the University, the finances of that body naturally demanded my attention, and I was compelled to institute some enquiries respecting the accounts which were rendered to me

"This correspondence I now enclose, and I have only to say, that it was not without considerable hesitation, that I could satisfy myself with only recording my opinion in the Minute to the Council, which closed it, instead of proceeding to further measures.

"I have, &c,

"C POULETT THOMSON

"The Right Honourable

"LORD JOHN RUSSELL, &c &c"

The enclosure referred to in the despatch was a letter to the Bursar in the following terms —

"TORONTO, *February* 15, 1840

"SIR,—Your letters of the 11th, 12th, and 14th instant have been laid before the Governor General, together with the enclosures With reference to the defalcation in the accounts of the Treasurer and the omission to take security from that officer, his Excellency is sorry to find that no remedy now seems possible, and it is only to be hoped that the property of the late Treasurer may be found sufficient to prevent ultimate loss to the University

"With respect to the loan of money stated to have been made to the Bishop of Toronto upon the security of certain notes of hand and upon the subject of which in addition to your remarks, a letter has been transmitted addressed to yourself by the Right Rev Prelate, I am commanded to inform you that his Excellency the Governor General feels himself compelled to record his opinion for the information of the Council.

His Excellency wishes to abstain altogether from the consideration of the circumstances under which the loan was sought, afforded to in the letter of the Right Rev Prelate, and upon which he had neither the desire nor the right to require any explanation The points upon which he is called upon to express an opinion, as Chancellor of the University, are the circumstances under which the loan was made by the Council, and the action that has been taken upon the securities given.

"It appears that a loan of a considerable sum was made by the Council to one of the members of the Board; such a proceeding his Excellency cannot by any means view in the light of an ordinary money transaction The employment of the funds of a public trust by one of the trustees for his own advantage is a proceeding which, in his opinion is highly objectionable, and calculated to destroy the confidence of the public in the management of the University" With regard to the second point, his Excellency regrets to be obliged to remark, that a proper course has not, in his opinion, been pursued It appears from the statement, that no less than eleven notes of hand are over due, of which three have been due since the year 1837, three since 1838—and the remainder since the 24th December, 1839 In business of this kind, punctuality should always be observed But in the affairs of a public trust, a scrupulous regard to it appears above all things

* In England such a transaction would be visited with severity in a Court of Equity. (*Note to the original minute.*)

desirable if a note of hand be not discharged at maturity by the party first liable, the simple and ordinary course is to call upon the endorser (if any) to do so. No such steps seem to have been taken, and the signatures of these bills have been permitted to remain dishonoured, some of them for a very considerable time

"I have, &c.,

"T W C MURDOCH,

"*Chief Secretary*

"Dr. Boys, *Bursar*."

The last returns to Parliament of the University's affairs, were prepared in May, 1843, and laid before the Legislative Assembly in October of the same year. They professed to give "a statement of the affairs of the University of King's College, and also of Upper Canada College, for the years 1839, 1840, 1841, and 1842,"—but the manner in which they were prepared, so successfully defeated the objects of the Legislature in calling for them—that both Houses found it necessary to appoint Committees for the purpose of making further investigations, by the examination of books, papers, and persons. This examination was in progress, and evidence of an extraordinary character had been elicited, when the investigation was unfortunately arrested by the proceedings which terminated the last Session. In these circumstances, our Financial statement must necessarily be very imperfect, but we are fortunately enabled to throw such light upon some parts of the statement of the College Council, as may enable the public to form a fair judgment on the merits of their administration.

	Acres
The original endowment of King's College amounted to	225,944
Of which there have been sold, up to 31st December, 1842,	110,610
Leaving on hand,	115,334
Of which there were on lease,	95,334
And unoccupied,	20,000

The sales were commenced in the year 1828, and their number has amounted to 909, in fifteen years. The number of acres sold has varied in different years according to the exigencies of the trust. In some years the number of acres sold did not exceed 350, while in another, and at so early a period of the trust as the year 1835, no less than 18,088 acres were disposed of. In 1829, there were 11,863, and in 1833, there were 13,568 acres sold. The average price received between the years 1828 and 1842, was 22s. 8d. per acre.

It thus appears that before the University had gone into operation considerably more than one-half of the original endowment had been disposed of. A fact so startling will naturally lead to the enquiry, under what authority did the College Council proceed in the absolute disposition of lands which had been appropriated for the purposes of education, and what extraordinary circumstances could warrant a proceeding so repugnant to the well known principles of law, and so inconsistent with the purposes for which the endowment was made?

In a legal point of view, there cannot be a doubt that every sale which has

been made in vain. The Grant gives the Council no authority to sell, and the Charter is equally silent.

The administration of the endowment must, therefore, be subject to the common principles of law which govern similar foundations. Although the University of King's College may, in some respects, partake of the nature of a civil corporation—as, for instance, in respect of its Professors who have stipends annexed to their chairs *pro opera et labore*—yet the purposes for which it was established give it in some respects all the character of an eleemozynary foundation. It was instituted for the purpose of imparting assistance to its members in the prosecution of their studies, and, in the administration of its estate it is, therefore, subject to the principles of law which regulate corporations for charitable purposes.

Now, the Trustees of an eleemozynary foundation are not authorised by law to make an absolute disposition of any part of the estate. The Court cannot authorise such a disposition, and Parliament itself will not go so far. Acts of Parliament have been sometimes obtained to authorise the exchange of an estate belonging to a charity for another, but in no instance, so far as we are aware, has an act been passed for converting such estate into money.

The Court of Chancery has invariably declined to sanction a sale where the authority to sell is not given by the instrument under which the Trust is constituted. And even where an implied power may exist, the Court will not interpose its sanction without sufficient proof, as well that the sale is consistent with the provident Administration of the Estate as that it is rendered necessary by the situation and circumstances of the Trust.

But what possible circumstances could arise consistent with a conscientious Administration of the Estate under which the College Council was constrained to dispose of a single acre of the Endowment? The University did not go into operation for fourteen years after the grant had been made; a separate provision had been given for the erection of the necessary buildings, lands immediately available and already under lease had been exchanged for the original Endowment; an income of more than £1 000, per annum, was obtained from rents during the first year of the Trust: the annual income notwithstanding the diminution of the Estate, had gradually increased to about £12,000—far exceeding the necessities of the Institution—and yet, in spite of these advantages, the College Council have found it necessary to maintain their solvency by disposing of by far the most valuable portion of their Endowment, namely, the lands under Crown leases with all their valuable improvements, before a single lecture was delivered in the University.

The necessities under which the Council have suffered have not merely been of their own creation but have been caused by a violation of trust of the most flagrant and nefarious character. A sum of £250 per annum was given for upwards of 12 years to one of the colleagues in the discharge of his duties as a Trustee—the same Trustee was privately accommodated with loans to a large amount—an expensive but unnecessary establishment of clerks was kept up for the benefit of the Bursar,

whose subserviency has been all along purchased by pickings and perquisites—the pretext for keeping up this establishment was sanctioned by the system of sales of the Estate—the sales themselves being not only unnecessary, but perpetrated in fraudulent breach of trust—and, notwithstanding the ruinous diminution of the Estate, the Council have little more to exhibit of the proceeds than a wretched boarding house for the accommodation of twenty-four students—an avenue—and a large amount of irrecoverable arrears of rents and instalments.

It is notorious that the manner of conducting the sales has been an less illegal than the principle upon which they were effected At various periods of the trust, a determined opposition has been given to the sale of land by various Members of the Council, who have succeeded in putting an end to open Council to a practice which has, notwithstanding, never ceased in the Bursar's Office. A great portion of the sales has accordingly been made without authority of the Council, and during the course of the last year nearly 10,000 acres were disposed of when the authority of the Council was in abeyance. The sales have at no time been made under statute of the Council as required by the Charter, and indeed such have been the pressing necessities of the Council, that valuable lands have been frequently disposed of, at prices greatly below their real value, for the sake of an immediate instalment, and no great anxiety has been exhibited in securing the balance of the purchase-money

The disbursements of King's College, from the year 1828 to 31st December, 1842, were as follows:—

Assistance given to Upper Canada College, in fourteen years, exclusive of interest, amounted to -	£40,130	4	4½
Purchase of the Site of the University, College Avenue and Grounds, Improvements, &c. - - - -	13,148	1	9
University Buildings &c - - - - -	8,731	10	5
Management and Incidental Expenses, - - -	14,787	15	2½
In all, - - - - -	£76,797	11	9

In the Parliamentary Returns an details are given, from which the liabilities of the University can be ascertained It is certain, however, that at the date the Returns were made the obligations of the Council were considerable, and under the head of "University Buildings," &c., upwards of £10 000 were disbursed in the course of the year 1843 In the absence of the details, which were necessary to give any value to the accounts, it is difficult to make precise allegations of mismanagement and misapplication, but we are greatly within the mark when we say, that upwards of £100 000 have been disgracefully squandered out of the Endowment, before a single lecture was delivered in the University That no part of the sum has in any respect benefited the Institution, will be sufficiently obvious on an examination of the various heads of expenditure

Upper Canada College.—The origin of this Institution has been noticed in the General History of the University Its management having been placed in the hands of the College Council, it has participated, to a large extent, in the

character which has attached itself to the University with which it was incorporated by the amended Charter. The minor College has been chiefly useful as a school for providing education, at a cheap rate, to the children of the higher classes. During the fourteen years in which it has been established, it has received a Parliamentary grant of £1000 sterling, per annum, and although it has also derived a considerable income from its own munificent endowment and from the fees of the Students, during the same period it has drained the University to the extent of £40,000, exclusive of interest. Although the dues had been fixed at a very low rate, yet, owing to gross negligence in their collection and a system of favouritism practised towards individuals, the sum of £6400, for dues, was given up as in arrear on 31st December, 1842. So long as the College Council have had the endowment of the University to fall back upon, the minor College has been sustained with a profusion of external means without a parallel in any school in Great Britain. The average number of pupils has for some years been about 150, of which 100 have been day pupils, and 50 boarders. The Establishment supports no fewer that 11 Masters, exclusive of visiting Teachers, giving an average of 13 pupils to each. The salaries of the Masters are as follows:—

Principal of U. C. College,	£666
Three Classical Masters, at £333 each,	999
Mathematical Master,	333
French Master,	222
Two English Masters, at £194 and £128,	322
Master of Preparatory School,	191
Matron of Boarding House,	75
Drawing Master,	100

The dues for tuition are the only dues which are paid into the College funds. The Boarding Establishment is in the hands of one of the Masters, and the College Council is responsible to him for the deficiences arising either from remissness in favouritism in the collection. The stationery used by the pupils, and the expense of keeping in repair the buildings, &c., have been defrayed by the Council. The annual charges of the Establishment have amounted, for many years, to upwards of £4000. Taken on an average of the four years preceding December, 1842, the dues for tuition have amounted to £1131 per annum. The sum actually collected has, however, fallen far short of that amount. It thus appears that, independently of its own endowment and the College dues, Upper Canada College has received assistance from Parliament to the extent of £1000, and from the University to the extent of £2700 per annum. In the evidence lately given before a Parliamentary Committee, by Dr. McCaul, who was Principal of Upper Canada College for upwards of four years, and ex officio a member of the College Council, he admitted that if an offer of £1000 per annum, with a promise of keeping the buildings in repair and the grounds in order, had been made, the inducement would have been sufficent for a highly qualified Master to undertake the superintendence of Upper Canada College. The exertions which he has made, however either in the capacity of Principal, or as Trustee of King's College, to reduce the expenditure are unknown to the public.

and, it is believed, have not been greatly felt by either Institution. During the course of 1843, when a vacancy existed in the office of Principal, he attempted a characteristic modification of the system which was intended to have the effect of uniting the various offices of Principal, Vice President, and Professor in his own person. This attempt failed in the manner which will be afterwards adverted to. At present, it is sufficient to mention, that in the face of repeated remonstrances to the late Sir Charles Bagot against the appointment of a Principal, on the ground of the unnecessary expenditure, and the unfitness of any of the Masters to fill the situation, in which the President of the University concurred, with an emphatic denial of the Chancellor's legal right to make the appointment, the same influence was used with Sir Charles Bagot's immediate successor, to secure the office to the present Principal, whose superior qualifications as a plant tool, were at length discovered to be available in carrying out the intrigues of the College Council.

UNIVERSITY BUILDINGS.—No portion of the buildings necessary for the proper business of the University has yet been commenced. The buildings formerly used by the Legislature of Upper Canada having afforded temporary accommodation for Lecture-rooms, Library, &c. In pursuance of the design of reducing the endowment, by the erection of Conventual Establishments for the domestication of the Students, the Council have expended the sum of £10 000 in the erection of a boarding-house. This building is as yet unfinished, so that no estimate of the entire expense can at present be made. A sum of £1500 has lately been expended on a range of water-closets, yet the building, when completed, is calculated for the accommodation of only 24 Students. The Council have it in contemplation should a speedy sale of the Endowment be effected, to continue the series of monastic establishments for the accommodation of Students and Professors, and have held out to certain members of the Council the prospect of superior private accommodation as an inducement to vote the sale of lands. In the meantime, they will proceed to erect an Episcopal Chapel and Hall in continuation of the present building. The expense of buildings for the domestic accommodation of 100 Students may be estimated at about £50 000 or about one-half of the remainder of the Endowment. The great advantage expected to accrue from this scheme will be the absorption of the available funds for High Church purposes, in order to frustrate any attempt to obtain a participation in the Endowment by the other Christian sects. To enable the Council to accomplish this nefarious scheme, they have lately opened up the sales which can now be effected in the Bursar's office without the necessity of an application to the Council. Whether parties will run the risk of purchases which are void in Equity remains to be seen. There can be no doubt, however, that every purchaser will be guilty of a participation in the fraud. The building already erected, is understood to have been finished under the careful superintendence of the Vice President, and is a happy specimen of that peculiar style of architecture and internal economy which affords the least possible accommodation at the greatest possible expense. For the purpose of giving external symmetry to a building utterly devoid of

architectural grace, the upper range of apartments have been so constructed that the windows are exactly on a level with the floor—apartments of a few feet square have three of their walls constructed of cut stone, and a great portion of the interior has been deprived of all the benefit of light. The building has, on the whole, been regarded as a curious monument of the imbecility of the Council, and is a striking instance of the impropriety of placing the administration of a public estate in the hands of a few Clergymen, whose profound ignorance of business is the most venial of their errors. The erection of this building was accompanied by one of those disgraceful "Jobs," without which the Council seem to consider their schemes as altogether incomplete. For the purpose of evincing their partiality towards a favourite contractor, the tenders were not accepted till nearly three years after they were made. When the tenders were made, labour and materials were high. When the work was commenced, the price of labour had greatly fallen, and although it was known that the building could have been finished for two or three thousand pounds less than the price originally tendered, the tenders were then accepted and the contracts entered into. An architect was employed to superintend the erection of this building, and his services have been retained for an indefinite period, at a salary of £200. The labours of this individual, who may be regarded as a permanent officer of the Establishment, seem to be principally dedicated to the amusement of the Vice President, and to the gratification of his frivolous taste with pictures and plans of buildings, for the erection of which there is, fortunately, neither necessity nor means. The other buildings upon which the funds of the University have been frivolously squandered and misapplied, are an Episcopal Chapel and an Anatomical Theatre. The chapel was fitted up by the Vice-President when the authority of the Council was in abeyance. Although only intended for temporary accommodation, the sum of £500 was devoted to this illegal purpose. The Anatomical Theatre cost about £300, and was also erected under the superintendence of the Vice President, whose versatile genius, "though equal to all things, for all things unfit," seems to ranges undismayed by its own ignorance, over every department. The object of this building was to secure the domestic accommodation of the Bursar in the University, and his co operation in the schemes of his patrons. The Theatre was otherwise wholly unnecessary, and its plan and purpose were carried into effect in opposition to the wishes of the Medical Faculty.

Expenses of Management.—The principal feature under this head is the Bursar's Office. The statement of the annual expense of this department is as follows —

Bursar's Salary,	£400	0	0
First Clerk,	175	0	0
Second do.	150	0	0
Extra do	136	17	6
Messenger,	50	0	0
Sundries,	288	2	6
	£1200	0	0

This estimate was made for the years preceding 1843; the expense has since

considerably increased This Establishment has all along been a nest of petty sinecurists. The employment of Clerks has been almost solely occasioned by the illegal sales of land Were these sales put an end to, the Establishment could at once be reduced Although the Bursar enjoys other perquisites from his patrons in the Council, yet his salary is extravagantly large, and is amply sufficient of itself for the maintenance of the Establishment. Under the corrupt system of management, which exists perhaps to a greater extent at the present moment than at any former period of the management, all the important business of the University is transacted at the Bursar's Office, without any consultation with the Council The Bursar, in a private consultation with one of his patrons in the Council, may in one hour dispose of every acre of the endowment, and it is notorious that large sales have been frequently made at sums much below the value of the lands. The real power of the Bursar is virtually worthless, but it is raised into omnipotence when combined with the advice and instructions of the President and Vice President It is an important fact, that at various periods of the trust, the Bursar has kept private accounts between the lands of the University and certain members of the Council, which accounts have not been patent to the other Trustees. His subserviency and co-operation have been purchased by petty favours at the expense of the trust. He has been appointed Steward for the superintendance of the Hall Dinners, with a salary of £60, and for the purpose of giving him a free house to which he had no claim, the Medical Faculty has been deprived of Lecture Rooms and other accommodation in the University. Perhaps the most corrupt feature in the management, is the Bursar's Office Under colour of a pretended discretionary power, which would be illegal if it did exist, but which is at all times at the service of two members of the Council, every species of jobbing and intrigue is carried on The entire management of the estate seems, indeed, to be carried on upon a system of patronage. The other expenses of management have increased to a ruinous extent since the opening of the University The Vice President's expensive taste for lackeys and domestic officials burdens the University with the annual sum of about £1000 The aggregate fees of the Students, during the first and second Terms, amounted to about £500. This sum merely covered the amount paid to Dr Beaven, as Steward, and was exclusive of attendance, &c., which yield the Bursar other emoluments. The expense of keeping in repair the avenues and grounds amounts to £350 annually When the Monastic Establishment shall be placed in operation, the maintenance of an efficient police may be expected to be a formidable item in the expenditure.

Investments.—One of the most flagrant instances of violation of trust of which even the College Council have been guilty, occurred in their recent loan to the Cathedral Church of Toronto. The unvarnished history of this transaction is as follows.—The Churchwardens finding their resources utterly exhausted, and being without the means of raising an additional shilling on the security of the Church, applied to their friends in the College Council for an advance of £4500 Such an investment was of course illegal from the funds of a trust, but the College Council being virtually composed of Episcopalian Clergymen, the affairs of the

Cathedral were to them matters of much interest. Previous to this application the greater part of the available assets of the University had been invested in Government Debentures bearing interest at six per cent., but as the desire to bestow liberally on the Cathedral blended harmoniously with their own interests, the means of propping its declining fortunes were speedily discovered and most unscrupulously used. The requisite amount of Debentures was transferred from the archives of the University to the hands of the Churchwardens, and as the transaction was regarded as a pious accommodation to friends *legal* security was neither asked nor obtained. But the enormity of this fraudulent transaction is to be found in its connection with a collateral circumstance. *On the very day that the Debentures were transferred to the Churchwardens, a negociation was opened and completed by the College Council with one of the City Banks for a loan of £4000, to meet the pressing necessities of the University.*

Income of the University.—In the Returns submitted to Parliament, the College Council have estimated their annual income, as on the 31st December, 1842, at £11,859 7s 5d. In the particulars of Income the University is credited with the interest on Government Debentures to the amount of £38,000, but upwards of £10,000 of Debentures have since been disposed of. There can be no doubt that, under a proper system of management, the Endowment would yield the sum stated, and that if the Estate still in existence could be preserved, its increasing value would keep pace with the educational necessities of the country. The estimate of the Council has, however, been formed on a wilful misrepresentation of their true position. Arrears of rents have been allowed to accumulate to the amount of £16,798, and the instalments of purchase money now due amount to no less a sum than £51,747. It has been the practice of the Council to allow the purchase money to remain in the hands of purchasers as long as they pay interest, and in cases where the parties were considered sufficiently simple to submit to the imposition *usurious interest has been charged*. As the arrears of interest already amount to £18,000, some conception may be formed of the improvident management to which the Estate is subjected. It is, indeed, notorious that an immediate instalment will at any time tempt the Council to sell at almost any price, and the remainder of the purchase money is transferred to the depository of arrears. The greater portion of these arrears are irrecoverable; but the Council credit their income with interest on large sums the principal itself being irrecoverable. No attempt, however, is made to reduce the expenditure to the actual income—but an imaginary income is arranged by the Bursar, and the heavy deficiencies caused by negligence and corrupt management, are filled up by fresh attacks upon the capital. This system is explained in a note to the last returns: "In providing for the annual expenses of the University, we must avoid entrenching upon the portion of these receipts (of proceeds of land sold, interest, and rents) which should be reserved as capital, on the other hand, *we need not confine our expenditure to the amount of rent and interest actually received*, for, from the mode in which we sell property by instalments, the interest on which is receivable only as the instalment becomes due, and not annually upon the purchase

money outstanding, we may fairly expend part of the early instalments received, in anticipation of the interest accruing on the more distant instalments, which, when they become due, yield their accumulated interest.' The introduction of this note was intended to give an air of plausibility to a system of spoliation No attempt has ever been made by the Council to adapt their expenditure to the amount of rent and interest either already received or anticipated The expenditure has recently borne a due reference to the available capital in the hands of the Bursary, and were the same profuse expenditure to be continued, a very few years will be sufficient to swallow up the Endowment.

The existing Constitution of the Council is to every respect favourable to the designs of certain of its Members Owing to the absence of the Law Officers of the Crown, the management of the University has fallen into the almost uncontrolled possession of a few Clergymen, who, profoundly ignorant of their value, are recklessly disposing of lands in various parts of the Province, and are binding the Estate by contracts for buildings and imaginary improvements to meet which no available means exist Since all hopes of retaining exclusive possession of the Endowment have been shut out, the rashness and extravagance of the Council have known no bounds,—they have not concealed their design of impairing the Endowment before Parliamentary interference can be effected,—and there is every reason to fear that their nefarious designs may to a certain extent, be successfully executed, unless measures are immediately adopted to put a stop to their reckless proceedings

Note.—It was our intention to have carried our narrative over the proceedings of the new Council which has been formed under the Charter; but, for several reasons, we abstain from doing so at present The short period, however, that has elapsed since the formation of this body, has been sufficient to develope its true character, and as the whole of its recent proceedings are likely to be made the subject of parliamentary investigation, we think it advisable not to anticipate the verdict of the country. When this event takes place shall have been made, we feel assured that the result will warrant a Supplementary Chapter to our history

In the mean time, it is due to the disinterested minority in the new Council to state that the profligacy of the old management has not been dealt upon the new, without a strenuous and honourable opposition. It will scarcely appear credible hereafter that persons, some of whom had recently arrived from England and were in no degree versant in the corrupt practices of the College Council, should have shuddered at the idea of commencing their Trusteeship with wholesale misappropriation of the revenues of an educational endowment, at that the check which they gave to a base system of plunder should have aroused the vengeance of the perpetrators. We shall yet have occasion to disclose some extraordinary circumstances in reference to these proceedings, and in particular to the secret and cowardly *misrepresentation* by Dr McCaul to the Chancellor, of the manly conduct of two of his colleagues Professors Gwynne and Croft, by whose dismissal, without a hearing, he hoped to have put an end to a high minded opposition to his designs upon the Institution. Signal as was his discomfiture, in the refusal of the Chancellor to be made a party to the *attempt* will form a dark stain upon the early history of King's College as a Literary Institution It must be recorded that as Vice-President signalized the commencement of his usurped power by an attempt to crush two of the Professors having seats in the Council, because they had dared to exercise their rights as British Freemen in representing to the Legislature of their country that in consequence of the Union of the Provinces and the consequent absence of four of the members of the Council, the Charter had become partially inoperative The extraordinary Vice-President, with childish impetuosity, seized the first rumour of the retirement of the late Ministry to represent

to the Chancellor that such a proceeding called for the signal punishment of the petitioners, because, forsooth, it was *unprecedented!* Good heavens, Dr. McCaul the arbiter of our civil privileges! With what nice discrimination the shrewd wisdom of Bacon described a set of characters who seem to have ever had an owl-like propensity to frequent the seats of learning—and who, "heaving little history, either of nature or time, did out of no great quantity of matter, and infinite agitation of wit, spin cobwebs of learning, admirable for the fineness of thread and work, but of no substance or profit" If the leisure of frivolous pursuits will permit the investigation, Dr McCaul will find abundant precedent for an Academic Petition to the Legislature even in the restrictions which he effects to admire without the ability to understand. We shall supply him with at least one remarkable instance

On 21st March, 1834, Petitions to both Houses of the English Legislature were presented by Earl Grey and the Hon Spring Rice respectively, from sixty three members of the Senate of Cambridge, all of whom were members of the Established Church of England. They were signed by two Heads of Houses, by ten Professors, (among whom were some of the most eminent members of the University of Cambridge,) and by eleven Tutors of the different Colleges. In reference to the character of the parties by whom the Petition was signed, it will be sufficient to state, that, among the Professors, were Airy, Musgrave, Lee, Hewett, Babbage, and Sedgwick, the last of whom had the year before distinguished himself by an eloquent, and by Cambridge men thought to be a triumphant and unanswerable defence of the character, studies and pursuits of Cambridge Among the Tutors were Messrs Peacock, Bowstead, and Thirlwall—the latter one of the most eminent classical scholars in Europe The Petitioners in fact embraced the great majority of the intellect and talent of the University. They complained generally of the system which exists at Cambridge, and which they considered inconsistent with and prejudicial to the interest of the University, and to the general interests of religion They complained their Petition by declaring their honest and sincere attachment to the Established Church, and to the University, but that "they are impressed with a conviction that no system of civil or ecclesiastical policy was ever so devised by the wisdom of man, as not to require, from time to time, some modification from the external circumstances, or the progress of opinion In conformity with these sentiments, they would suggest to your Honourable House, that no Corporate Body, like the University of Cambridge, can exist in a free country in honour or in safety, unless its blessings be communicated to all classes as widely as is compatible with the Christian principles of its foundation" The Petitioners then proceed to state, that, "among the changes which they think might be at once adopted with advantage and safety, they would suggest to your Honourable House the expediency of abrogating, by legislative enactment, every religious test enacted from members of the University before they proceed to degrees, whether of Bachelor, Master or Doctor in Arts, Laws, and Physic." Your Petitioners conscientiously believe, that if the prayer of this Petition be granted, the great advantages of good academic education might be extended to many excellent men, who are now, for conscience' sake, debarred from a full participation to them, though true friends to the Institutions of the Country—and your Petitioners are convinced, that due to the best way at once to promote the public good, and to strengthen the foundations of the Civil and Ecclesiastical Policy of this Realm The University is a body recognized by the law of England as a lay corporation, invested with important civil privileges, and on that account resting on no secure foundation which is not in harmony with the moral system of the State Your Petitioners, therefore, humbly beg leave to suggest that as the legislative bodies of the United Kingdom have repealed the Test Act, and admitted Christians of all denominations to seats in the Parliament, and to places of dignity and honour, they think it both impolitic and unjust that any religious Test should be exacted in the University previously to conferring the civil privileges in the degrees above enumerated" Such was the change prayed for in a Petition to the Legislature, emanating from the very bosom of the University of Cambridge—from men of the highest attainments in literature and science—eminently distinguished for collegiate usefulness and University honours all of whom were deeply pledged and deeply interested in the welfare of the University, and responsible for the due administration of its affairs! and yet a memorial by two of the Professors of King's College, Toronto, simply representing that

political changes in the Province had rendered its Charter in some respects inoperative, it made the subject of a secret complaint to the Chancellor, by a weak, but arbitrary, Vice-President, who vainly imagined that he had discovered in this constitutional proceeding the source of vindictive triumph. Was utterance given to a malignant expression by the Duke of Gloucester, Chancellor of the University, when the Cambridge Petition was presented to the House of Lords? Was it then that the same Chancellor regarded a subsequent Petition in the Legislature from some of the *Undergraduates* of Cambridge? The memorable words which the Royal Duke used to the latter occasion, should speak daggers to the breast of the Reverend John McCaul. "Young man," said his Royal Highness, to one of the Undergraduates who waited on him privately with the Petition, "I disapprove of *Undergraduates* seeking Petitions to the Legislature; but I cannot refuse,—admiring as I do the religious feeling that has actuated the Bachelors and Undergraduates,—to act upon the zeal with which I am urged and the peculiarity of the case. *I have been an Undergraduate myself, and am now your Chancellor—and I will advocate your cause and present your Petition.*" In similar circumstances, Dr. McCaul secretly suggests to the Chancellor the dismissal of two of his colleagues, because their Petition was "unprecedented!"

If Professors Croft and Gwynne had prayed for a change in the constitution of the University, as was done in the Cambridge petition, the fears of the High Church party might have been justly alarmed, for if the matter could have been considered within the walls of the University with hopes of ultimate success, if any power had been inherent, either in the Chancellor or Council, to grant the prayer of the petition a Vice-President of too narrow intellect to grasp a constitutional principle might have been pardoned for offering a remonstrance to his colleagues, on their passing over the legitimate and academic mode of attaining their object, but had he consulted the practice of those institutions of whose internal government he seems to be absolutely ignorant, he could never have hazarded the assertion that the proceeding was "unprecedented!" From the earliest times, objections have been made by members of the English Universities to the practices which prevailed at them, and charges of mismanagement have been brought in no very measured terms. In Acts of Parliament, and in Letters from the Crown, complaints have been made of their absurd regulations. The Preamble of an Act passed in the Reign of Edward VI., very justly begins with declaring "that the ancient Statutes of the Universities are obscure, unintelligible, and semi barbarous, and that others more intelligible and fashioned more according to the conditions of the times, and to the practice of the new learning have become requisite." (See Dyer's Academic Unity.) The Vice-President of King's College, Toronto, only uses in such objections an insult to the Chancellor and an "unprecedented" proceeding!

But the *real* ground of complaint lay in the honourable opposition given by these gentlemen to the disgraceful and ruinous system of mismanagement which has made the University of King's College a by-word in the Province. Dr. McCaul found it impossible to secure their co-operation in passing a Statute for the Vice President's agrandizement of the expense of the other Professors; and nothing but dismissal could attone for so grievous a personal injury. An effort was privately, but ineffectually, made to prevail on the other members of the Council to join in this mean and treacherous conspiracy, but the proposal was indignantly spurned by all, except the Bishop of Toronto, who readily shared the odium of the charge and the disgrace of its signal defeat.

During the Chancellorship of Sir Charles Bagot a Schedule of Salaries and Duties was laid before his late Excellency by Dr. McCaul, and which was professedly framed in reference to a statement of the income of the University. In that Schedule Dr. McCaul estimated his own services as a Professor, at £400—while the sum of £250 was attached to the office of Vice President. Sir Charles Bagot reduced the salary of Vice-President to £150, and raised that of the Professorship to £500—thus meeting in another form Dr. McCaul's own ideas of his importance. A Statute was prepared by Sir Charles Bagot in accordance with this appropriation, and transmitted to the Council. *This statute was intercepted and cancelled*—the Chancellor's severe illness having offered a favourable opportunity for defeating his intentions. On the arrival of Sir Charles Metcalfe, a new Statute was framed by the parties in Toronto, in which, taking advantage of the addition made by Sir Charles Bagot to Dr. McCaul's salary, as a

Professor, the sum stated was £500, and also taking advantage of Sir Charles Metcalfe's ignorance of the former Chancellor's arrangement of the salary of Vice President, the sum stated was £250 Will Dr McCaul hazard an explanation of the discrepancy?

But as the original Schedule of Salaries had been efficiently predicated on a severe analysis of the income, in adding £100 to one part of the expenditure, it became necessary to subtract a like amount from another, and therefore Dr McCaul modestly and ingeniously reduced the salary of the Professor of Law to £100—being £50 less than the salary of the Junior Clerk in the Bursar's Office Will Dr McCaul fairly estimate the value which the public attach to the talents, attainments and efficiency of the Professor of Law and the Professor of Literature respectively?

The Statute of Sir Charles Bagot, which was clandestinely intercepted and cancelled, predicated the salaries of the Medical Professors on a view of the duties attached to the corresponding Professors in the most eminent Medical Schools in Great Britain; and in accordance therewith the late Chancellor pledged himself to these salaries when the appointments were made. The Statute transmitted to Sir Charles Metcalfe was framed with the view of adapting the expenditure to an intermediate job perpetrated by the Council, at a sacrifice to one Professor of £50, and to another of £150 yearly. Will Dr McCaul explain the circumstances attending the appointment of the Professor of Materia Medica? Will he explain the ineffectual attempt to cajole the Masters of Minor College into an approval of his conduct in a Memorial to the Chancellor, with a view to the union of the offices of Vice-President and Principal—his interference with the Statutes of the late Chancellor—the preparation of the present Statute and concealment of the former—his effecting the passing of a Statute to add £100 to his income, by getting the person through whose instrumentality he attempted to secure the apparent approbation of the Masters—the tool whom he all along affected to despise—foisted upon Upper Canada College, in violation of his own assurances to Sir Charles Bagot, that he was unworthy of the appointment? These and many other questions of a still more serious character, will assuredly have to be answered by Dr McCaul before the proper tribunal The time has long gone past when a person in his position could be permitted with impunity to trifle with the sacred rights of the people of Canada, or to use them as commodity for his private aggrandizement

CHAPTER VIII.

THE UNIVERSITY BILL.

The introduction of a Bill, during the last Session of Parliament, for the more efficient establishment and satisfactory government of the Collegiate Institutions of Upper Canada, was hailed with all but universal delight by the country. Nor was the intensity of the gratification diminished by the consideration that a measure for the more liberal government of these Institutions had emanated from the Local Administration, and that the Bill had been framed by the Attorney-General for Upper Canada—whose enlightened principles of civil and religious freedom—perfect acquaintance with the condition of the country—and ardent sympathy with the feelings and wants of its population—afforded a guarantee for its thorough adaptation to the circumstances which had called loudly for its introduction.

The objects of this Bill were thus recited in the Preamble:—

"Whereas a University for the advancement of learning in that division of this

Province called Upper Canada, established upon principles calculated to conciliate the confidence and secure the support of all classes and denominations of the people, would, under the blessing of Divine Providence, greatly promote the best interests—religious, moral, and intellectual—of the people at large: and whereas, with a view to supply the want of such an Institution, his late Majesty King George the Fourth was graciously pleased by Royal Charter, tested at Westminster, the 15th day of March, in the Eighth Year of his Reign, to establish a College at Toronto, under the name of King's College, with the style and privileges of an University, and afterwards to endow the same with certain of the waste lands of the Crown; and whereas, with a like view, certain other Colleges and Collegiate Institutions have since been established, in the same division of the Province—one at the same place, under the name of 'Upper Canada College,' endowed also out of the public lands; one at Kingston, under the name of 'The College of Regiopolis,' endowed by private means alone; another at the same place, under the name of 'Queen's College,' or 'The University at Kingston,' in like manner endowed by private means alone; and another at Cobourg, under the name of 'Victoria College,' endowed by private means assisted by a Parliamentary Grant—the two latter of such Colleges having likewise the style and privileges of Universities: and whereas the people of Upper Canada consist of several and various denominations of Christians, to the members of each of which, without distinction, it is desirable to extend the benefits of an University Education, and to maintain the just rights and privileges of all, without offence to the religious opinions of any, by leaving the teaching of Divinity and the education of the Clergy and Ministers of Religion to Collegiate Institutions incorporated into the University, but managed under their several Charters, in connection with the different Churches, or other religious bodies contemplated by their Founders, as declared in such Charters respectively: and whereas, by an act of the Provincial Parliament passed in the Seventh Year of the Reign of his late Majesty King William the Fourth, the Charter of the said first mentioned College was in certain particulars altered and amended in order, as the Preamble to the said Act recites, to meet the desire and circumstances of the Colony: and whereas, for the more complete accomplishment of these desirable objects, it is expedient to repeal the said Act, and to substitute some other provisions in lieu thereof, for the purpose of providing for the separate and more efficient exercise of the Collegiate and University functions of the said Institution: and whereas with a view to the same objects it is also expedient to alter and amend in several particulars certain other Acts of Parliament of this Province, referring to others of the said Colleges and Collegiate Institutions respectively, to incorporate such Institutions with the said University, and to transfer to and vest in such University the sole power of conferring Degrees in the several Arts and Faculties in Upper Canada, and to make some other provisions for the efficient establishment and satisfactory government of the said University: Be it therefore enacted &c."

It was of course, to be expected that a measure subversive of the designs of the High Church party in reference to the University should meet with considerable opposition, but singularly enough that opposition was confined to a minority of the College Council, and with the exception of a Memorial to the Legislature by the Episcopal Bishop of Toronto, and an argument by Counsel at the Bar of the House, on behalf of the Bishop and two of his clerical co-adjutors, not a murmur of dissent from the principle of the Bill proceeded from any part of the Province. And but for the singular events which abruptly terminated the Session, the Bill would unquestionably have become the law of the land.

The argument of the Hon. W. H. Draper at the Bar of the Legislative Assembly,

claims attentive consideration, not only on account of the eloquence and high legal attainments of the speaker, but as embodying all the reasons that could be effectively urged in support of the claims of the party whom he represented It would be supererogatory to follow the learned counsel in his objections to the details of a measure no longer before the country; but as there can be no compromise of the *principle* contained in the University Bill, in whatever shape it may again be submitted to the Legislature, it may not be improper to conclude this historical sketch with an examination of those constitutional questions affecting the prerogative of the Crown and the legitimate functions and powers of the Provincial Parliament, which formed so considerable a portion of Mr Draper's argument.

As a question of constitutional law, the jurisdiction of Parliament in reference to the University Bill must necessarily be argued on the assumption that the powers and functions of the Provincial Parliament in local matters are co-ordinate with those of the British Legislature in matters affecting British interests For if this position be not conceded, the analogies and precedents, which Mr Draper has drawn and adduced from British practice, must fail in their application, where special rules for Colonial Government exist.

Assuming then that the Canadian Legislature has been endowed with powers, or rather that there are inherent in its constitution powers, corresponding with those exercised by the Legislature of England, what analogies and precedents are furnished by British practice for the two leading propositions which Mr Draper has laboured to establish? *First*, "that the Legislature cannot, without infringing on the prerogative of the Crown, erect a new Corporation with University powers and *privileges*," and, *second*, "that it cannot (excepting as an act of will and power unsustained by reason or principle) deprive a Corporation of the rights and franchises which the Crown has legally granted to it, or in any way interfere with them without the consent of such Corporation"

The first of these propositions proceeds on an hypothesis—an assumed principle which Mr Draper has not attempted to prove—that the University Bill asks the Provincial Parliament to exercise a creative power by calling into existence a new University, with all the privileges, immunities, and rights, which usually belong to such corporations But the Bill assumes no such position It treats the University as pre-existent and actually in operation under a Royal Charter, and it not only invades no privilege or franchise formerly granted, but it actually gives such privileges and franchises further protection and extension by adapting them to an enlarged sphere of action. The Bill involves neither the destruction of one University, nor the creation of another—it merely provides for a union of the University privileges which had been previously granted by the Crown to separate Corporations, and, by the union and co-operation of powers and privileges, it attempts to infuse vigour into rival institutions, whose vitality had languished under a separation of interests. If therefore there be any privileges peculiar to Universities which it is the prerogative of the Crown alone to confer—privileges

which are unknown to Statute, and independent of Parliamentary aid—their constitutional source has been amply recognised by the Bill

But no such privileges in relation to Universities are known to exist. Mr Draper has throughout his argument laboured to throw into the shade the creative power of Parliament in erecting corporations, and then by skillfully taking advantage of the obscurity in which the origin of the ancient English Universities is involved, he has attempted to draw an imaginary distinction between the corporate character of literary and of other civil corporations, for which no constitutional or legal analogy exists

That the crown has the power to erect corporations, and to endow them with privileges and franchises is undoubtedly correct—but Mr Draper, and not the law of England, has invested the Crown with the *peculiar* prerogative. Lord Coke lays it down that, "corporations may commence and be established three manner of ways, viz, by prescription, by letters patent, or *by act of Parliament*"—(1 Inst. 183,) and every institutional writer since his time has adopted the same enumeration Mr Justice Blackstone does indeed state, in the passage cited by Mr. Draper, (after recognising the principle as enunciated by Lord Coke, but in terms still less favourable to an absolute or peculiar prerogative, for he merely requires as an ingredient the King's consent, either express or implied), that "it is observable, till of late years, most of those statutes which are usually cited as having created corporations, do either confirm such as have been before created by the King, as in the case of the College of Physicians erected by Charter, 10 Hen. VIII., which Charter was afterwards confirmed in Parliament, or they permit the King to erect a corporation *in futuro* with such and such powers, as in the case of the Bank of England, and the society of the British Fishery. So that the immediate creative act was usually performed by the King alone, in virtue of his royal prerogative"—(1 Com 473.) But the passage as thus partially quoted by Mr Draper contains merely an historical and not a legal qualification of the principle laid down in the first part of the sentence which the learned Counsel has omitted to quote, that "By Act of Parliament, of which the Royal assent is a necessary ingredient, corporations may undoubtedly be created." And the reason that *till of late years* the immediate creative act was *usually* performed by the King alone in virtue of the prerogative is to be found in the circumstance that in early times the nature and limits of Parliamentary jurisdiction as applicable to an infinite variety of circumstances, had not been defined with perfect precision, and that the facility of obtaining a Royal Charter was comparatively greater than by Statute On the other hand, before the sixteenth century, the prerogative was supposed to extend to every public case, and was accordingly exercised with an arbitrary disregard of those constitutional restrictions which render it wholesome to public liberty. When Blackstone wrote, the powers of Parliament and the prerogatives of the Crown were both equally understood, and accordingly even that "very orthodox Judge"—as he is called by Gibbon, on account of his leaning to arbitrary power—claims for Parliament the *general* exercise of the power which, *till of late years*, was *usually* exercised by the Crown. And since the passage

was written the greater number of new Corporations have received their privileges by Parliamentary Statute, in which the "Royal assent is a necessary ingredient"

To withdraw the Universities from the ordinary operations of the law, the learned counsel finds it necessary to resort to an imaginary distinction between collegiate and other corporations. But the law admits of no such distinction among Institutions in their corporate capacity. Although in early times the Universities were considered to be ecclesiastical, they are now regarded strictly as lay corporations. (Lord Mansfield in Rex vs University of Cambridge.) In this character they seem to partake as well of the nature of civil as eleemosynary foundations—civil in respect of their machinery and government, and eleemosynary in reference to the tenure and administration of their Estate. In a question as to their constitutional modification they must necessarily be treated as civil corporations, and in this character Mr Draper regards them.

The learned Counsel has wisely refrained from stating the specific privileges enjoyed by Universities which should withdraw them from Parliamentary jurisdiction. That Parliament should exercise a control over their purposes and objects is at least as clear as its undoubted right to control other civil corporations. That Parliament has no power to create learning or talent, may be applied with equal truth to the prerogative of the Crown; but that the power either of the Parliament or of the prerogative, may foster and encourage, and give direction to associations and institutions for the promotion of learning, is a matter of every day experience and practice.

Now, the only privilege which distinguishes Universities from other literary and scientific institutions, is the power with which they are endowed of conferring degrees, which, it may be said, must flow from the Crown, as the fountain of honour. Assuming then that the University Bill really went the length of erecting a new corporation with University powers and privileges,—is the power of conferring degrees *ultra vires* of the Parliament?

It is very obvious that the assent of the Crown being a necessary ingredient in every legislative act—that assent obtained, the powers which would flow from the single exercise of the prerogative, must form a part of the privileges which it is the intention of the legislative measure to confer. But, although the power of granting degrees may be admitted to flow originally from the Crown, as by courtesy the fountain of honour, yet this power by no means forms a part of the prerogative. It may be delegated to a subject—it may proceed from foreign authority—it may spring spontaneously from, or it may be incidental to the subject matter of the institution which assumes the power. In the argument of Mr Attorney-General Yorke, in the case of Dr Bentley, he observed, "If the Crown erects a University, the power of conferring degrees is incident to the grant. Some old degrees the Universities have abrogated, some new they have erected." Now the general rule of law undoubtedly is, that where a subject matter is granted which has legal incidents belonging it the incidents must follow the subject granted. The power of conferring degrees was therefore conferred on the Canadian Institution when the endowment was given and the Corporation

erected by Royal Charter. No parliamentary modification, which does not by express words deprive the Institution of that power, can affect its legitimate exercise; and the University Bill leaves this privilege unimpaired.

But even in the case of the English Universities, it cannot be maintained that the power of conferring degrees has, in every instance, flowed originally from the Crown, and as the application of Mr Draper's historical argument mainly relies for its strength on the obscurity in which the ancient history of these institutions is involved, it may be proper to inquire somewhat more minutely into their origin than it would have been prudent for him to have done.

In reference to their early origin and peculiar privileges, the Universities of England can scarcely be said to have come within the ordinary operations of English law. The word itself and the thing meant were of European consuetude and growth, and accordingly some of their privileges—such as that of the Vice Chancellor's Court, which is governed by the principles of the civil law—could only be conferred, or at all events must have been confirmed by statute, inasmuch as the Crown could neither confer nor confirm privileges which were inconsistent with the principles of the common law. The privileges attached to the Universities of Oxford and Cambridge seem to have been similar to those held by the Universities of Paris, Bologna, Salamanca, Louvains, and other ancient continental Universities. Their origin took place in circumstances common to them all, and their perfect similarity in early times, raises a strong presumption that they were all created in the same manner and by the same power.

The oldest Universities in Europe arose *spontaneously* during the twelfth and thirteenth centuries, and there can be still little doubt that they were all of ecclesiastical origin. The fame of eminent teachers, such as Irnerius at Bologna, and Abelard at Paris, attracted vast crowds of learners or students to the towns where the Schools were instituted. At first the immunities which these Schools enjoyed were merely of a local kind: they sought and had occasion for few peculiar public rights. Their growing importance, and the vast concourse of Students from all countries at length made it necessary for them to be possessed of summary powers of discipline and internal government, which were readily conferred by the local authorities; and the Papal and Royal powers would appear to have soon afterwards conceded the privileges which they had in the first place acquired from more limited authority. Grants had been executed in their favour by pious and charitable persons for the purpose of maintaining indigent Scholars, and these Grants were, with the privileges which the Universities had assumed or acquired, confirmed sometimes by Royal Charter, but more frequently by Bull. The Pope, indeed, at first arrogated to himself the right of vesting them with all their privileges; and prior to the Reformation, every University in Europe conferred its degrees in all the Faculties by authority derived from a Papal Bull. But after that event the Universities assumed to themselves the power of creating degrees. The University of Paris, as well as those of Oxford and Cambridge, existed at first only in the lay Faculty of Arts: the

Faculties of Divinity, Canon Law, and Medicine, were afterwards assumed by themselves

If then the Universities of England have the power of creating or abrogating degrees at pleasure, what privileges exist which it is the peculiar prerogative of the Crown to create? Their civil law jurisdiction could only be exercised under the authority of statute, for if that privilege had been conferred by the Crown alone, it would have been tantamount to making new laws, which the Crown, as one branch of the Legislature, cannot do without the aid of an Act of Parliament, and again their right to the enjoyment of their property may have been, and actually was acquired by private grant or by prescription

It is certain that the greater part of the property held by the English Universities was acquired from individuals, and in some instances the heirs of the founders, notwithstanding their Royal confirmation, still possess a visitorial power by virtue of the common law Both at Oxford and Cambridge these establishments originally consisted of two distinct foundations—the University proper and the Colleges. The former was regarded as founded and privileged by public authority for the general benefit, while the latter were founded and privileged by private munificence for the interest of certain favoured individuals The University proper existed prior to the Colleges, the former having been instituted for the purposes of education, and the latter principally for ailment and habitation At Oxford and Cambridge at present the Universities may be said to be in abeyance, or at least to exist only through the Colleges and this fact has afforded ground for argument to the High Church party in England against the admission of Dissenters, that the Colleges being foundations private to their incorporate members, the Legislature cannot deprive them of their right of optional exclusion, without a subversion of their constitution But as admission to the Universities cannot be obtained without a previous entrance into one of the Colleges, the dethronement of the Universities and the usurpation of the Colleges have both been accomplished through an illegal suspension of some of the University privileges *

* The peculiar constitution of the English Universities it is very important to keep in view, when an effort is made to draw analogies unfavourable to parliamentary jurisdiction over the University of King's College in Canada In an elaborate defence of Oxford, its privileges are thus stated — "There are, moreover, some points in the constitution of this place, which are carefully hid out of sight by its revilers, but which ought to be known and well considered before any comparison is made between what we are and what we ought to be THE UNIVERSITY OF OXFORD IS NOT A NATIONAL INSTITUTION It is a congeries of foundations, and originating, some in Royal munificence, *but more in private piety and bounty* They are moulded indeed into one corporation but each one of our twenty Colleges is a corporation by itself, and has its own peculiar statutes, not only regulating its internal affairs, but confining its benefits by a great variety of limitations "

The argument used by the High Church party in England, will however, operate powerfully against that urged by Mr Draper in Canada. In England the jurisdiction of Parliament over the Universities has never been denied—its moral right to interfere with the Colleges which are private foundations has been questioned; and although a Bill for the admission of Dissenters has been passed in the House of Commons by a

That the English Universities have received Charters from the Crown may be admitted, without vainly ascribing the foundation of Oxford to Alfred, or of Cambridge to an earlier Prince, as has been done by their respective partizans.* Edward I., we are aware, gave a Charter to the Universities, but this was merely a recital and confirmation of the Deeds of foundation previously given by private persons—who, notwithstanding the King's Charter, retained their visitorial powers as founders under the common law.

The power, indeed, which the Crown appears to have exercised in former times over the Universities was very considerable and it certainly has not been sanctioned by constitutional authorities. In 1549 Edward VI. sent down by commission several visitors to Cambridge to alter and reform the statutes of some of the Colleges. This commission was issued, however, not upon the King's general visitorial power which he exercises by virtue of the common law over charitable foundations where no special visitor has been appointed by the founder, or where the right of visitation, in default of heirs, devolves upon the King, to be exercised by the Great Seal,—but proceeded strictly and was derived from his newly acquired spiritual jurisdiction established on the ruins of the papal authority in England. The power of visitation conferred on the Crown by 25 Henry VIII. was also purely of an ecclesiastical nature, and indeed was a mere transference of the power that had been claimed and exercised before that time by the Pope as Head of the Church. In those times Universities were considered to be ecclesiastical foundations, but both the doctrine and the power have since been exploded. The interference of Charles II. by Letters Missive was an act of arbitrary dispensation which cannot be supported at the present day.

When a proposal was made by William III. of a Royal visitation, Lord Chief Justice Holt denied the right of the Crown to interfere, and Lord Chief Justice Wilmot expressed an opinion at once adverse to the right of the Crown and favorable to Parliamentary jurisdiction. "I have long been a warm advocate for our Universities," said Lord Chief Justice Wilmot, "and for that reason, perhaps, have been too rigid and severe a disciplinarian, for their existence depends upon the activity and honor of the tutors and heads of houses and whenever there was

large majority, yet, independently of other obstacles, the reluctance of the British Legislature to interfere with rights and privileges privately acquired, may readily account for its temporary defeat in the House of Lords. But in Canada the Endowment held the University are undoubtedly public, and may therefore properly be made the subject of legislation."

* "The origin of the English Universities as traced by the profound research of Mr Hallam would appear to be invested with even a deeper obscurity than that with which antiquity generally enshrouds the early history of literary institutions. "The earliest authentic mention of Cambridge as a place of learning if I mistake not, is in Matthew Paris, who informs us that, in 1209, John having caused three Clerks of Oxford to be hanged on suspicion of murder, the whole body of scholars left that city, and emigrated, some to Cambridge, some to Reading—in order to carry on their studies. But it may be conjectured, with some probability, that they were led to a town so distant as Cambridge by the previous establishment of academical instruction in that place. The incorporation of Cambridge is to 1231 (15 Henry III.) so that there is no great difference in the legal antiquity of our two Universities."—*Hallam's Middle Ages*, Chap. 9, Part 2.

a total relaxation of discipline, if they either do not take care to know, or whenever they connive at idleness, *the Parliament must and ought to take the reformation of them in their own hands*, and attempt to rescue the rising generation from vice and ignorance by some new system of academical government" Lord Mansfield, in the very case from which Mr Draper has quoted, admits that "the Crown did formerly exercise a power over the Universities which cannot be supported by any sound principles of law"—(Rex v University of Cambridge)

Over all corporate property the Legislature has always exercised a high and special trusteeship; and the prerogative of the Crown is at the same time clearly defined by the common law as consisting in a visitorial power to see whether in the lapse of time the intentions of the founders have not been frustrated Parliament and the Crown are alike entrusted with the power of erecting Corporations and giving them Charters the only difference in the practice being in the change effected by the Revolution—that where the power of the Crown was formerly supposed to be sufficient of itself to meet all cases, the Royal authority must in certain circumstances be exercised legally and constitutionally through the medium of both Houses of the Legislature There can be as little doubt of the power of the Crown, thus constitutionally exercised, to erect and found new Corporations, whether Universities or other civil foundations, as there can be of its constitutional exercise in the abrogation of such laws as have become unnecessary or inexpedient. But whenever a Charter has been confirmed or altered by the Legislature, whether that Charter was originally public or private, the power of the Crown alone is insufficient for its further modification, and hence the dictum of Lord Mansfield in referring to certain new grants which had been made by Queen Elizabeth to the University of Cambridge, subsequent to a Parliamentary interference, and which Mr Draper has twisted and triumphantly quoted for another purpose—that "the validity of these new Charters must turn upon the acceptance of the University" That learned Judge indeed lays it down that the Crown alone cannot take away their rights or give them Statutes or Charters without their own voluntary acceptance,—as was the case between Charles I and the University of Oxford,—but it may be doubted, notwithstanding the dictum of Lord Mansfield, whether the voluntary acceptance of new Charters by the Universities would not be illegal, and would not be tantamount to an alienation, which could only be effected by the aid of a Parliamentary Statute

If, however, we are sent back to ancient usages—if we are referred to the wisdom and acts of our ancestors—we cannot doubt on historical grounds that Parliament has not only exercised the full and absolute power of interfering by legislative enactment with the practice and regulations of the Universities, but that the Universities of England are in fact great National Institutions, supported and maintained by acts of the Legislature—that their Charters privileges and rights are secured by Acts of Parliament—that some of their highest advantages have been conferred on them by the same means—and that the most important right which they legally enjoy—the right of possessing that which formerly belonged to the Catholics—has been conferred by the very instrumentality which

the Advocate of "the chartered rights" of King's College repudiates and condemns in the reigns of Henry VIII, Edward VI, Mary, and Elizabeth, enquiries took place into the condition of the Universities by commissions, and the result of each of the commissions was the alteration, by Parliamentary Statute, of the regulations and proceedings of the Colleges constituting the Universities. The Statute passed in 13th Elizabeth, upon which Mr Draper has laid considerable stress as having been "framed by the authority of the Crown and probably introduced by the Ministers," was in fact the result of one of these commissions, and besides embodying the spirit of the *Statuta Antiqua*, or bye laws of the Universities, and of the various Acts of Parliament of the Reigns of Henry VIII., Edward VI., and Mary, which have always been regarded as the ancient constitution of the Universities, was also designed to effect various important alterations on their constitution, and was framed not merely with the view of protecting the government, but also of regulating the appropriation of the revenues of the several Colleges But whether it was "framed by the authority of the Crown," or "introduced by the Ministers," will probably little affect its validity at the present day.

The argument of the learned Counsel as applied to the Irish and Scottish Universities, is equally destitute of legal and historical accuracy He has passed over Trinity College, Dublin, with the brief observation that it received its Charter from Elizabeth, but had he enquired further into the history of that Institution he would have discovered that it was pregnant with analogies and precedents for the modifications proposed by the University Bill Passing over its early history,—even so recently as 1785 an Act of Parliament was passed to *establish* in Trinity College three additional professorships And in 1793, an Act was framed by Mr Pitt, and was passed by the Irish Parliament for the purpose of modifying the University to an extent which was decried as subverting its "Chartered Rights," and undermining its ancient constitution—

By ancient Statutes the Dissenters were admitted into the University of Dublin, without religious tests, but the Roman Catholics had been all along excluded from the offices and honours Mr Pitt's Bill was intended to admit the Catholics considerable relief, and merely excluded them from the offices of Provost and Fellow Two or three Catholics were accordingly admitted on the passing of the Act, admitted to Scholarships, but as the Statute did not in express words take away the oaths of supremacy and the declaration against the invocation of Saints, the Fellows have thought fit to enforce their being taken and subscribed on admission to Scholarship and have thus prevented the Catholics from aspiring to that honour The Statute was however passed by a Parliament, of which the Provost was a member, and the Representatives of the College were acquiescing parties So far indeed as the University itself was concerned there was but one objection and no opposition—and that objection was made neither to the jurisdiction nor moral right of Parliament to legislate, but it was contended by the party who urged it that no Roman Catholic should in future be excluded from any of the offices or honours The amendment was proposed by John Claudius Beresford

—a name of dreadful familiarity to Roman Catholic ears—and in the speech which he delivered on the occasion, he is reported to have said —"God forbid that I should ever see the pious intentions of the Royal Founders of the University frustrated by any perversion of the privileges or revenues thereof If it be determined to open the Universities to Catholics, let the British Minister first procure an Act of Parliament to open the English Universities and then the bitter potion may be more readily swallowed by the infatuated and betrayed protestants of Ireland"

Mr Draper has omitted any reference to the Roman Catholic College, at Maynooth, which was founded in 1795, *exclusively by an Act of Parliament.*

Nor is the learned Counsel more fortunate in his reference to the Scottish Universities. The University of St Andrew's was founded by Henry Wardlaw, Bishop of the Diocese, in 1411, and was confirmed by Papal Bull, in 1413. The College of St Salvator was founded by Bishop Kennedy, in 1456, that of St Mary, by Archbishop James Beaton, in 1537, and that of St. Leonard in 1512 In 1747, the Colleges of St Salvator and St. Leonard were united by Act of Parliament.*

The University of Glasgow was established in 1450, by Bull issued by Pope Nicholas V, and it is worthy of remark, issued at the request of James II More than one Act of Parliament has been passed in reference to this University.†

King's College, Old Aberdeen, was founded in 1494, by Bishop Elphinston, Lord Chancellor of Scotland in the Reign of James III, and Lord Privy Seal in that of James IV The King afterwards claimed the patronage of the College Marischal College, New Aberdeen, was founded after the establishment of Protestantism in Scotland by William Earl of Marischal, and its deed of foundation was confirmed by Act of Parliament within three months after its execution ‡

The University of Edinburgh was founded by the citizens who obtained a license

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* "The University of St Andrew's "says Malden" was founded by Henry Wardlaw, Bishop of the Diocese, in 1411. The King James I of Scotland, the Bishop, and the Heads of the Augustinian Priory at St Andrew's requested the Papal sanction, and accordingly a Bull was issued in 1413, by Benedict XIII, by which it was made a University, and a general study for all the Faculties It received other benefactions from the Church, which were ratified by the King in 1432, and he, at the same time, granted to all its members an exemption from taxes—a privilege confirmed by his successors"

† "The University of Glasgow was established in 1450, by a Bull of Pope Nicholas V, issued at the request of James II —A charity was given for the institution of the general study of all Faculties, and the University was empowered to grant Degrees, which should be valid throughout Christendom In 1453, a Royal Charter was granted by James II, with an exemption from taxes and all civil burthens"—*Ibid.*

‡ "Marischal College, in New Aberdeen, which claims to be a separate University, was founded in 1593. The Founder William Earl of Marischal directed the Principal to confer the Degree of Master of Arts upon Students who deserved it; and, as the deed of foundation has been confirmed by more than one Act of Parliament, the College is an authorized University"—*Ibid*

from James VI for founding a College within the city In 1621, an Act of Parliament was passed ratifying its various grants, and among other things *authorising the University to confer Degrees* *

Mr Draper's reference to the Scottish Universities thus completely fails Not one of these Institutions owed its foundation to Royal Charter, but they were all founded and created by private grant by Papal Bull or by Act of Parliament All the Scottish Universities were re-modelled under the auspices of Buchanan, at the time of the Reformation, so as to adapt them to the immediate wants of the community In the course of the last century Faculties of Medicine and Law have developed themselves, and in 1826-27, a commission of inquiry was set on foot, the result of which has been the adoption of many practical reforms and useful alterations in these Establishments †

* In 1581, the citizens of Edinburgh obtained a license from James VI for founding a College within the city; and in 1582 a deed by various donations, they procured a suitable site for it The Provost and Town Council were empowered to repair and build houses for the reception and habitation of Professors. The Town Council proceeded to act upon this license, and opened an academy at first under a single Regent, augmenting the number of teachers from time to time, according to the increase in the number of Students. In 1584, the King granted property not to the College, but to the Magistrates and Town Council for the benefit of the College; and in 1613 he gave a Charter *confirming* all that they had done In 1621, an Act of Parliament was passed, ratifying the Royal Endowments, and the erection of the College, as a College for the profession of theology, philosophy, and humanity, and *granting* in favour of the Burgh of Edinburgh, patron of the said College, and of the regents and students in the same, *all the liberties and privileges pertaining to any College within the realm.*' On that authority it is that the University confers Degrees The College is in every respect subject to the Magistrates and Town Council of Edinburgh. No essential alteration was given to it like those of other Universities The Town Council are the absolute patrons of the Professorships of their own Institution, and of the office of Principal The College consists at present of twenty six Professors, of whom twelve are appointed by the Town Council, and eight are appointed by the Crown The Professors of Botany holds commissions under both The remaining five are of a mixed nature but the Town Council has a voice in all The Senatus Academicus consists of the Principal and all the Professors. This body is not legally constituted by any of the original deeds, but takes upon itself to act only by usage By the entire subjection of the University of Edinburgh to the Town-Council, the Professors are relieved from all care of the financial concerns, and of the lands and buildings It might be supposed antecedently to experience, that such matters would not be well managed by bodies of literary men and the experience of the other Universities, developed in the Report of the Royal Commission of Inquiry into the state of the Universities of Scotland, amply confirms the supposition. The Council not only fills the vacant chairs, and thus preserves the University from the abuse of a self elected corporation, but it can at any time institute any new professorship which it thinks to be for the advantage of science and general education; nor can the existing Professors maintain any monopoly of teaching, or close their society against the new member The Council has the discretion to leave all matters of discipline and ordinary detail to the Principal and Professors, while by its superintending power it can check any such practices as self governed corporations are apt to fall into, tending to the present benefit of the individual members rather than to the permanent benefit of the whole body

† The Scottish Commissioners were empowered to enquire into the mode of granting Degrees and of teaching, and were directed "to look narrowly into the revenues of the said Universities and the management thereof" Nay did the Scottish Commissioners protect the donations of pious founders. It was one of the

The reference to the University of Durham, and the London University, is not strictly applicable These Universities are privileged by Royal Charter, but it is inaccurate to say that from this source they derive their existence Both Universities are strictly private foundations, and on account of the tolerant principles upon which they were established—they were assailed with rancorous virulence by the Academic pulpits The characters and motives of their founders were maligned and their objects misrepresented in every shape that High Church ingenuity could devise, and with the determined and cordial opposition of the Bishops the passing of an Act for their Incorporation would have been a hopeless attempt But the reference to these Universities neither strengthens the one case, nor weakens the other That the Crown has power to incorporate a University, or other civil Institution, may be admitted without admitting an infringement on the right of Parliament to do the same.

In the two instances cited by Mr Draper from Canadian experience, unwarrantable inferences have been drawn from the facts He says—"The University of Queen's College at Kingston is founded by Royal Charter; the Act of the Legislature erecting it having been disallowed" But the Act of the Legislature was disallowed *on the application of the Trustees of Queen's College*, which is strictly a private foundation —not for the purpose of changing its constitution or powers—not because it had been discovered that Parliament had no right to legislate—but in order that the University might undergo a change in its name, and that it might occupy a place in public estimation not inferior to the exclusive University of King's College, from the privileges of which the Presbyterians had been unjustly debarred Upper Canada Academy, now Victoria College, was incorporated by Royal Charter, in 1836 and was afterwards, *by Act of the Colonial Legislature* erected into a College, with University privileges and powers The application for a Royal Charter in the first instance, was occasioned, not by any doubts of the powers and functions of the Canadian Parliament, but solely by local circumstances, which shut out for a time every reasonable prospect of obtaining an Act of Incorporation; and Lord Glenelg then Colonial Secretary, acting under the advice of English Counsel, hesitated as to the propriety of a Royal Charter, on the ground that "the Crown ought not to create any Corporation in the Colony that it was competent to the Legislature to create" The Charter for the incorporation of the Academy was only obtained after assurance had been given to the Colonial Secretary, that the Institution was in harmony with the views of the House of Assembly

If then the question of University Reform depends upon historical and legal precedent, the Canadian Legislature can scarcely hesitate to exercise those powers which have been constitutionally vested in the respective Parliaments of England, of Ireland, and of Scotland, which exist in supreme majesty in the Parliament of

subjects of special interest that an enquiry should be made into the ancient donations or mortifications as they are called in the Scotch Law— The Commissioners had also power to enquire into electoral and power was given them to frame a Code of Laws and Regulations for all the Universities.

the United Kingdom of Great Britain and Ireland, and which have been expressly recognised by the Imperial Government as existing in the Colonial Legislature, with the fullest application to the establishment in question

It surely cannot admit of doubt, that a power must exist in the constitution to adapt laws to the ever varying wants and circumstances which the moral and physical elements of which society is composed are ever producing If it be beyond the power of the Crown to interfere with an Institution which has already been made the subject of parliamentary legislation—are its defects, its corruptions, and injurious tendencies at once to receive constitutional protection, and to escape from constitutional control? As there is a moral duty, so there is an inherent power on the part of a government to make the laws of a country conducive to the happiness of its inhabitants, and no law can be properly maintained either after its object has ceased to exist, or after it has become positively injurious. As society is progressive, so the laws which govern it must be adapted to the changes to which it is exposed.

The right of parliamentary legislation over every other branch of the constitution is recognised and proved in every page of the history of England. The attempt would scarcely succeed at the present day to set up divine right, legitimacy, and prescription against the necessities which new interests and new opinions have created. If the acknowledgment was wrung from Charles I that "the King's prerogative is but to defend the people's liberties" it is scarcely to be denied that the people, through their representatives are the proper judges whether it should be restrained when it proves hurtful. "My Lords" said Holborne in his noble defence of Hampden, "whatever estate is in the king in the politic capacity, is in him as *rex*—and not in him in his natural capacity, and what is in him so is for the benefit of the kingdom"

But how idle it must be to argue the constitutional right of parliamentary control over a civil corporation in a country which has received a transcript of the British Constitution and among a people who inherit from their fathers the noble legacy of England's history and laws We have but to point to the maxim on which the succession to the Throne of England depends to find that "the right of inheritance therein may from time to time be changed or limited by Act of Parliament" (1 *Black.* 181), and to the instances in which that right has been exercised, to be satisfied that when a moral necessity for change may arise, the power to effect it will be found to exist in the Legislature

"A legislative Act," said Mr Burke in his argument on the Middlesex election, on the occasion of the expulsion of Mr Wilkes from the House of Commons by a simple resolution, "a legislative Act has no reference to any rule but these two—original justice and discretionary application Therefore it can give rights, rights where no rights existed before, and it can take away rights where they were before established For the law that binds all others, does not, and cannot bind the law-maker, he and he alone is above the law" The ultimate power and jurisdiction being thus ascertained to exist in the Parliament, it would be

difficult to discover any higher or stronger obligation on the consciences of legislators than the consideration of the public benefit, and therefore in reference to the modifications of a public endowment, the questions that require to be satisfactorily answered, previous to parliamentary interference, are simply,—Is the present system expedient? and have the Trustees discharged their trust with fidelity?

The real question, then, before the people of Canada is the expediency—the moral necessity of a change in the present system. And if at a particular period of the history of Canada, when an Episcopal ascendancy was paramount in the Councils of the country, it was deemed expedient to appropriate and set apart a magnificent endowment for educational purposes, and to place that endowment and the direction of education exclusively under Episcopal control, will it be maintained, when the country has, from a diversity of causes, become divided into many religious communities, each community being in the enjoyment of perfect equality in civil and religious privileges, that every advantage from the endowment shall be confined to the Episcopal members of the community, who now form one of the least of the variety of sections—that the privileges attached to the University must be perpetuated for the sole benefit of the original class, and that new aspirants to civil privileges are to be refused a partnership in public rights, either on the ground that their interests were not at one period contemplated and recognised, or that the monopolists refuse their consent to a participation? If the University was intended to be a National Institution, can we look at the numbers, the rank, the wealth, the character and intelligence of those who are excluded under the present illegal system, and say that it is *expedient* to deprive so large and influential a portion of the community of the benefits of a University education—that it is just or expedient to expose them to the feeling that they are ill used by the laws of their country by being precluded from the enjoyment of benefits which are open to others by the illegal regulations of any particular Establishment? What is the principle involved but the right of every man to religious freedom and liberty of conscience—a right which none dare publicly to controvert, but which the Trustees of King's College have dared to infringe by a secret violation of the law? Is it not enough to prove that the Institution only accomplishes a small part of the purposes for which it was established by law, to shew the propriety and necessity of giving it more enlarged and national usefulness? And is it of no importance to the interests of the country that persons differing in their religious opinions, but agreeing on other subjects, should not be estranged from each other on the ground of creed—that instead of imbibing those principles of tolerance and those feelings of Christian charity which a joint system of education would produce, a spirit of hostility should be engendered, by the influence of which they must become more estranged from each other in their literary and scientific pursuits? Can it be expected that the youth, who have been confined, during the progress of their education, in the choice of their associates, to a particular Church will be easily brought to believe, in their riper years, that the Christian virtues and graces flourish and are equally diffused

among Christians of all denominations? But, on the other hand, by a combined system of education—by the ties of affection and good will, which would be fostered, even the intolerant denunciations of their respective Churches, which are the relics of other ages, when parties were brought into collision in the struggle for their civil rights, and for religious ascendancy, would lose all the power which they would otherwise have in perpetuating that negative species of persecution, which robs social life of its cordialities, and invests a public career with half its amenity and bitterness.

Nor will any remedy less solemn than a declaration by Parliament of the equal rights of all denominations to a full participation in the advantages of the Institution, meet the exigency of the case, or restore public confidence in the Institution, or satisfy the country. Were the Amended Charter complete in its details, and were the complaint confined to a mere perversion of trust, the remedy—whether consisting in the restoration of the trust purposes, or in the punishment or removal of the Trustees—might be found in an inferior judicatory. But it must be recollected that the law—notwithstanding its recognition of the principle of equality,—was conceded and framed by the party favourable to exclusion, and at a political crisis when the best friends of education were unrepresented in the Legislature, and that its gross and glaring defects are such as to render it in many respects useless and inoperative. The law must be so framed as to prevent a corrupt administration—and, when badly administered, it becomes the duty of Parliament to remedy those defects, which have exposed it to perversion. The principle of equality, as already recognised, must be guarded by practical and efficacious rules and checks, to secure its healthy operation. And it is on less the duty of the Legislature to watch with a vigilant eye, the spirit of the age and adapt its measures to the changes produced by time, than to exercise a strict surveillance over the administration of the laws, so as to protect their principles from corruption or perversion. Nor does the existence of a subordinate judicatory for enforcing the proper administration of the laws, deprive the Parliament of its judicial adaptation to the least as well as the greatest objects. Its powers and functions as the supreme tribunal in the State, are applicable, in all circumstances, whether in declaring the meaning of the law with greater precision, or in correcting those mistakes which have occasioned either misconception of intention or corrupt administration.

The argument of the learned counsel assumes that the Bill "proposes to interfere with and take away privileges, liberties, and franchises, which the Crown has solemnly granted under the great seal of the Empire." But what "privilege, liberty or franchise," was enjoyed by the University which was not largely extended by the Bill? No part of the corporation was changed but its name—and what is more common than for a corporation to change its name and retain its powers, rights and privileges? The objects and purposes and subject matter of the corporation remained the same, but an extension of its advantages was proposed by the modification and adjustment of its machinery. It is

absurd to talk of disfranchising a corporation, when every end of its existence is clearly recognised, and every power which it holds is legally maintained

Now, the UNIVERSITY, as a corporation, was preserved in all its integrity, and in the unimpaired possession of its "privileges, liberties and franchises." The other Colleges asked for no separate lands, no distinct franchises—they did not even aspire to participation in University privileges, for they surrendered those which they held—they asked no extension of their charters—no new powers which were adverse to the rights already established—all that they asked, and all that the Bill proposed to give them was that their students might have the privilege of attending the Lectures in Arts and Sciences established out of a public endowment, and that that endowment might be so administered that such privilege should be enjoyed without offence to their conscientious convictions. The separate Colleges in the Universities of England have been endowed and privileged by private individuals Surely that which has been done legally in England by the piety or munificence of individuals, may be constitutionally accomplished in Canada, without stretching, to an undue degree, the jurisdiction of the Parliament

But the argument of disfranchisement can be maintained with little either of grace or effect by the person who framed and introduced the amended law, which recognised to the fullest extent, the very principle which it is the object of the present Bill to reduce more thoroughly to practice By the introduction of the Amended Charter, Mr Draper, as a legislator, gave his solemn sanction and personal approval of the principle which Mr Draper, as of Counsel for the Trustees of King's College, afterwards called upon the Commons of Canada in the name of their God, their Queen, and their Country, to condemn Was not the sole object of the Amended Charter to deprive the Episcopal Church of the *exclusive enjoyment* of University "privileges, liberties, and franchises?" Did it not expressly recognise the equal rights of all denominations of Christians to an unconditional participation in those privileges, liberties, and franchises, and have not the Trustees of King's College fraudulently disfranchised the people of Canada of the "privileges, liberties and franchises" which Mr Draper's own Statute conferred upon them? And, moreover, did not Mr Draper's Amended Statute, to the fullest extent, recognise the power and jurisdict on which as an advocate he affects to repudiate? True it is that the Crown gave its sanction to the amendments—true it is that the Crown "*invited* the attention of the Legislature to the improvement of the Charter" But will the invitation of the Crown invest the Legislature with power and jurisdiction which are not inherent in its constitution? Must the validity of Acts of Parliament be tested by dragging from grim and musty obscurity uncertain evidence of their having been "framed by the Crown," or of having been 'probably introduced by the Ministers"—or if the invitation of the Crown invests the Parliament with its "omnipotence,' is the Despatch of a Colonial Secretary to work the charm which the Bill of an Attorney-General is impotent to produce!

But in what character do the Council of King's College appear at the Bar of

the Legislature to protest against a measure for the modification of a public endowment? If the Council of King's College have been invested with franchises, they are of a public nature, and they as well as the endowment to which they are attached, are held in trust for the benefit of the whole community. There is an obvious distinction between private property vested in individuals as such, and property vested in individuals in the character of public Trustees, and therefore held by them only for the public benefit. There can be no claim on behalf of these Trustees in their own persons, for the University was erected into a Corporation purely for public purposes. Now a Corporation is an ideal being—a legal fiction—an incorporeal shadow endowed with vitality and power solely by the creation of the law for the purpose of holding rights in trust for the public interest. If any of its Trustees are in the enjoyment of a life-tenure, there is to that extent a personal right, but otherwise there is simply a Trust which must be held and exercised for the public benefit.

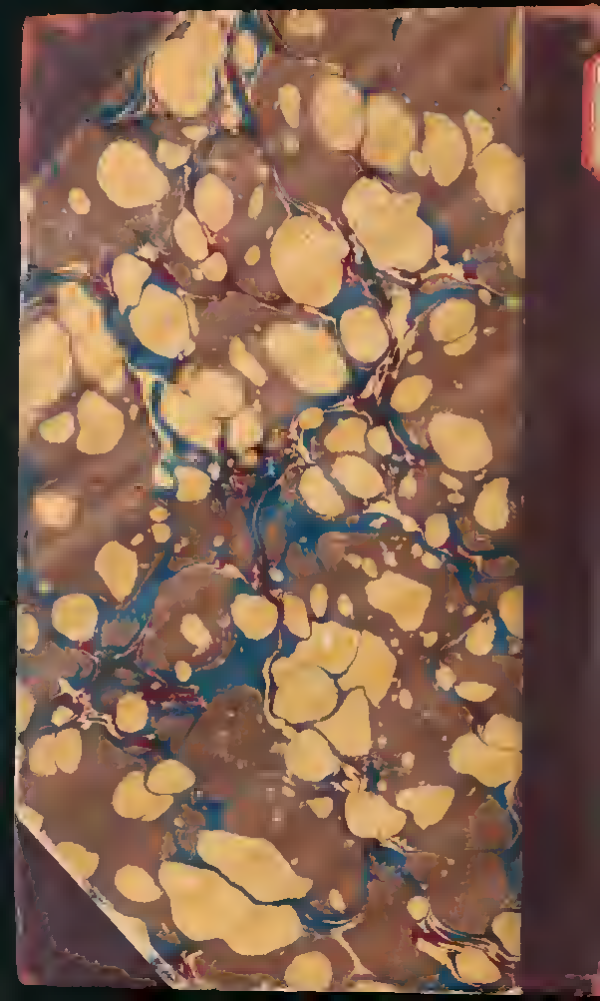
But as all Trusteeship pre-supposes confidence between the parties, when that confidence is lost, the office of Trustee may be recalled. For the Trustee can have no personal interest in the estate in virtue of his office, and therefore the interest is solely in the parties for whose benefit it is held. In the present instance the beneficiary right is vested in the public, who must therefore be possessed of the power to remove their Trustees. The resumption of the endowment would in fact be nothing more than the removal of the Trustees, even were that endowment to be applied to other than Academical purposes.

The distinction between the right to private property vested in individuals either personally or as Trustees (or as in the case of the Collegiate Institutions of Lower Canada, which are expressly endowed, not for national, but for Roman Catholic purposes, and in that character are guaranteed by the laith of the Empire), and property vested in individuals in the character of public Trustees will always be recognised by the Legislature. Parliament has the power—and it occasionally exercises the right of interference with either—but on private property it will seldom legislate, unless where its existence or purposes are positively pernicious—or when it is taken collectively, as in case of Parliamentary taxation—while over public and corporate property it exercises a special trusteeship as to its management and direction. And if it be convenient for the Parliament to recall or limit a public trust, are the Trustees to be entitled to say that they ought to keep it for their own purposes? Is a public reformation not to be accomplished without bribing certain Trustees into connivance? Or does it follow that the Parliament are necessarily doing violence to adverse claims and titles, simply because certain Trustees have not come voluntarily forward to surrender a public trust which they have scandalously perverted?

The learned Counsel must have internally smiled at the idea of alarming the fears of the Legislature with an argument which he would not have ventured to use in a far inferior Judicatory. If the obstinate resistance of the corrupt Council of King's College is to impede the progress of Parliamentary legislation what ought to have been the effect of a remonstrance from the ancient Burghs of Sarum and

Gatton on the course of English Parliamentary Reform? And if a Parliament could be found base enough to disregard the protest of the Brethern of Laud against all acts passed in their absence as being the acts of a Parliament no longer free, what amount of temerity will resist "the Memorial of John, by Divine Permission, Bishop of Toronto"?—Alas! we fear such is the arbitrary power now vested in and exercised by our Parliaments that the validity of their acts will scarcely admit of a question, even though the whole Bench of Bishops should record their dissent —or even, as in the case of the Act of Uniformity, the very name of the Lords Spiritual should be dropped from every part of the Bill If the only opponents of a legislative measure are the unfaithful stewards who have betrayed their trust what better argument could their exist for the legal and moral necessity of a change'

The betrayal of trust and subversion of the law by the College Council, deprive Mr Draper's argument of even the appearance of plausibility The contest is not one between the people of Canada and the vested rights of the College Council—but between a corrupt Council and the vested rights of the people All those "privileges, rights and franchises," for which Mr Draper has so eloquently contended, were vested in the community the College Council have, in violation of the law, perverted them to private purposes and have had the effrontery to appear at the Bar of the Commons in defence of a contraband traffic with a public endowment Those who talk of vested rights being invaded or infringed by the University Bill, should look at the original grant— its fraudulent appropriation—the deceptions practised in obtaining the Charter —the long and arduous struggles by the people to reclaim their birthright— the supposed termination of those struggles in the Legislative Act restoring the endowment to its legitimate purposes—and the defeat of those purposes by parties who have neither the capacity nor the integrity—neither the ability nor the inclination to promote any public good If the system at present in operation were carried on under the sanction of a law, however inexpedient—it might in some respects be defensible as a right—but carried on as it is under a flagrant violation of positive law and on the strength of a usurped power it calls for immediate alteration as subversive of the legal constitution of the Establishment, and inimical to the interests of the country



Date

Dear Name,

Sincerely,

Name

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Rate inflation and inflation in the Rate Index

FIGURE 4 - ORGANIZATION CHART OF THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

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ಮೀಸಲಾತಿ ಅಭ್ಯರ್ಥಿಗಳು ಸಾಮಾನ್ಯ ಅಭ್ಯರ್ಥಿಗಳಿಗೆ ನಿಗದಿಪಡಿಸಿರುವ ಅರ್ಹತಾ ಅಂಕಗಳನ್ನು ಪಡೆಯಬೇಕು

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المراجع

الملاحق

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Morning Prayer Day
Evening Prayer Day
Holy Communion Day

Advent
Christmas
Epiphany
Lent
Holy Week
Easter
Ascension Day
Pentecost
Trinity Sunday
Proper
Ordinary
Collect
Epistle
Gospel
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Alleluia
Tract
Sequence
Offertory
Secret
Preface
Sanctus
Canon
Communion
Post-Communion
Benedictus
Agnus Dei
Ite, missa est
Benedicamus Domino
Gloria in excelsis
Nicene Creed
Apostles' Creed
Athanasian Creed
Litany
Suffrages
Versicle
Response
Antiphon
Psalm
Canticle
Hymn
Doxology
Lesser Doxology
Greater Doxology
Kyrie eleison
Christe eleison
Lord, have mercy upon us
Christ, have mercy upon us
Lord, have mercy upon us
Amen
Alleluia
Hallelujah
Selah
Maranatha
Hosanna
Sursum corda
Lift up your hearts
Habemus ad Dominum
We lift them up unto the Lord
Gratias agamus Domino Deo nostro
Let us give thanks unto the Lord our God
Dignum et justum est
It is meet and right so to do
Pax vobiscum
Peace be with you
Et cum spiritu tuo
And with thy spirit
Dominus vobiscum
The Lord be with you
Oremus
Let us pray
Per omnia saecula saeculorum
World without end
Per Dominum nostrum Jesum Christum
Through our Lord Jesus Christ
Qui tecum vivit et regnat in unitate Spiritus Sancti Deus
Who liveth and reigneth with Thee in the unity of the Holy Ghost, God
Per omnia saecula saeculorum
World without end
Amen
Amen
Ora pro nobis
Pray for us
Miserere nobis
Have mercy upon us
Exaudi nos
Hear us
Libera nos
Deliver us
Parce nobis
Spare us
Audi nos
Hear us
Domine, salvum fac
O Lord, save
Domine, exaudi orationem meam
O Lord, hear my prayer
Et clamor meus ad te veniat
And let my cry come unto Thee
Requiescat in pace
May he rest in peace
Amen
Amen
Kalends
Nones
Ides
Anno Domini
Before Christ
Before the Common Era
Common Era
Ante meridiem
Post meridiem
Circa
Confer
Exempli gratia
Et cetera
Et alii
Et alibi
Et sequentes
Et sequentia
Et sequens
Et sequentes
Et sequentia
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Et sequentes
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Et sequens

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Name
Date
Class

Directions: Read the following passage. Then answer the questions that follow.

Excerpt from *Pride and Prejudice*

by Jane Austen

It is a truth universally acknowledged, that a single man in possession of a good fortune must be in want of a wife.

However little known the feelings or views of such a man may be on his first entering a neighbourhood, this truth is so well fixed in the minds of the surrounding families, that he is considered as the rightful property of some one or other of their daughters.

"My dear Mr. Bennet," said his lady to him one day, "have you heard that Netherfield Park is let at last?"

Mr. Bennet replied that he had not.

"But it is," returned she; "for Mrs. Long has been here, and she told me all about it."

Mr. Bennet made no answer.

"Do you not want to know who has taken it?" cried his wife impatiently.

"You want to tell me, and I have no objection to hearing it."

This was invitation enough.

"Why, my dear, you must know, Mrs. Long says that Netherfield is taken by a young man of large fortune from the north of England; that he came down on Monday in a chaise and four to see the place, and was so much delighted with it that he agreed with Mr. Morris immediately; that he is to take possession before Michaelmas, and some of his servants are to be in the house by the end of next week."

"What is his name?"

"Bingley."

"Is he married or single?"

"Oh! single, my dear, to be sure! A single man of large fortune; four or five thousand a year. What a fine thing for our girls!"

"How so? How can it affect them?"

"My dear Mr. Bennet," replied his wife, "how can you be so tiresome! You must know that I am thinking of his marrying one of them."

"Is that his design in settling here?"

"Design! Nonsense, how can you talk so! But it is very likely that he may fall in love with one of them, and therefore you must visit him as soon as he comes."

"I see no occasion for that. You and the girls may go, or you may send them by themselves, which perhaps will be still better, for as you are as handsome as any of them, Mr. Bingley might like you the best of the party."

"My dear, you flatter me. I certainly have had my share of beauty, but I do not pretend to anything extraordinary now. When a woman has five grown-up daughters, she ought to give over thinking of her own beauty."

"In such cases, a woman has not often much beauty to think of."

"But, my dear, you must indeed go and see Mr. Bingley when he comes into the neighbourhood."

"It is more than I engage for, I assure you."

"But consider your daughters. Only think what an establishment it would be for one of them. Sir William and Lady Lucas are determined to go, merely on that account, for in general, you know, they visit no newcomers. Indeed you must go, for it will be impossible for us to visit him if you do not."

"You are over-scrupulous, surely. I dare say Mr. Bingley will be very glad to see you; and I will send a few lines by you to assure him of my hearty consent to his marrying whichever he chooses of the girls; though I must throw in a good word for my little Lizzy."

"I desire you will do no such thing. Lizzy is not a bit better than the others; and I am sure she is not half so handsome as Jane, nor half so good-humoured as Lydia. But you always give her the preference."

"They have none of them much to recommend them," replied he; "they are all silly and ignorant like other girls; but Lizzy has something more of quickness than her sisters."

"Mr. Bennet, how can you abuse your own children in such a way? You take delight in vexing me. You have no compassion for my poor nerves."

"You mistake me, my dear. I have a high respect for your nerves. They are my old friends. I have heard you mention them with consideration these twenty years at least."

"Ah! you do not know what I suffer."

"But I hope you will get over it, and live to see many young men of four thousand a year come into the neighbourhood."

"It will be no use to us if twenty such should come since you will not visit them."

"Depend upon it, my dear, that when there are twenty, I will visit them all."

Mr. Bennet was so odd a mixture of quick parts, sarcastic humour, reserve, and caprice, that the experience of three-and-twenty years had been insufficient to make his wife understand his character. Her mind was less difficult to develop. She was a woman of mean understanding, little information, and uncertain temper. When she was discontented, she fancied herself nervous. The business of her life was to get her daughters married; its solace was visiting and news.

1. Which of the following is the best summary of the passage?
   a. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England.
   b. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters.
   c. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters, but Mr. Bennet refuses to visit him.
   d. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters, but Mr. Bennet refuses to visit him, saying that Mrs. Bennet and the girls may go by themselves.

2. Which of the following is the best summary of the passage?
   a. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England.
   b. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters.
   c. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters, but Mr. Bennet refuses to visit him.
   d. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters, but Mr. Bennet refuses to visit him, saying that Mrs. Bennet and the girls may go by themselves.

3. Which of the following is the best summary of the passage?
   a. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England.
   b. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters.
   c. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters, but Mr. Bennet refuses to visit him.
   d. Mrs. Bennet tells her husband that Netherfield Park is let at last to a young man of large fortune from the north of England, and she thinks he will fall in love with one of their daughters, but Mr. Bennet refuses to visit him, saying that Mrs. Bennet and the girls may go by themselves.

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Section 20 of the Indian Succession (Amendment) Act, 1926 (Act XXX of 1926), provides that, subject to the provisions of section 19 of the Act, no will made by any person to whom section 57 of the Indian Succession Act, 1865, applies shall be valid unless it is made in accordance with the rules contained in section 50 of the Indian Succession Act, 1865, or in accordance with the rules contained in any other law for the time being in force which is applicable to wills made by such person. Section 57 of the Indian Succession Act, 1865, applies to all Hindus, Muhammadans, Buddhists, Sikhs, Jains and Parsis. Section 50 of the Indian Succession Act, 1865, provides that every will shall be in writing and shall be signed by the testator or by some other person in his presence and by his direction, and that such signature shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will. Section 63 of the Indian Succession Act, 1865, provides that the testator shall sign or affix his mark to the will, or it shall be signed by some other person in his presence and by his direction, and that such signature or mark shall be made or the will shall be signed by such other person so that it appears that the testator